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ABSTRACT

As of September 1995, a total of 19 states had passed charter school legislation and 226 charter schools were operating. This document presents an overview of state legislation and describes the status of charter schools in operation in the United States. Chapter 1 provides background information on charter schools--a discussion of trends leading to the charter school movement, a definition of charter schools, and arguments for and against the reform. Chapter 2 analyzes charter school laws in all 19 states, with a focus on elements of the laws that make development of charter schools more or less likely, amendments to charter school laws over the years, and trends in 1995 legislation. The progress and demise of charter school legislation in Indiana during the 1995 session of the General Assembly are examined in the third chapter. Chapter 4 summarizes and analyzes the existing research on approved and operating charter schools around the country, including information on school type and size, student population, educational approaches, barriers to formation, parent involvement, effect on the public school system as a whole, and student achievement. Recommendations for policymakers are offered in chapter 5. Findings indicate that charter schools serve a student population comparable to the overall public school population in terms of race and socioeconomic status. They offer a variety of educational innovations. The two main barriers to implementation are lack of capital funds and lack of legal/business expertise. Any link between charter school organization and student achievement has yet to be documented. Five tables are included. The appendix contains a list of contact people and organizations. (Contains 29 references.) (LMI)

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CHARTER SCHOOLS

Legislation and Results after Four Years

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to improve education in the state.

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CHARTER SCHOOLS

Legislation and Results after Four Years

by Mark Buechler

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EXECUTIVE SUMMARY

When the Indiana Education Policy Center published a policy bulletin on charter schools in 1993, only two states—Minnesota and California—had passed charter school legislation, and only four charter schools had been approved. Now 19 states have passed such legislation. As of September 1995, 250 charter schools had been approved, and 226 of them were operating. In short, charter schools are beginning to look like a significant educational movement.

It is not a movement entirely without difficulties, however. One charter school in California was shut down by its sponsor. Others managed to make it through their first year at the cost of high staff turnover and considerable turmoil for students. Charter school operators complain of formidable organizational and financial barriers to opening new schools. Many legislators and educators remain opposed to the concept, and at least 16 states, including Indiana, have defeated charter school legislation.

However, given the current education policymaking trend in Indiana—indeed in many states—toward deregulation and decentralization, charter schools will in all likelihood be on the legislative agenda again in 1996. This is an opportune time, then, to revisit the charter school movement, to see what kinds of laws states are passing and how existing charter schools are faring.

What Are Charter Schools?

A charter school is an autonomous, results-oriented, publicly funded school of choice that is designed and run by teachers or other operators under contract with a public sponsor.

The process works as follows:

- Potential operators (who may be parents, nonprofit organizations, or even businesses as well as teachers) develop an application describing the educational program, expected student performance levels, assessment procedures, and other aspects of their proposed charter school. The application may be for a brand new school or for the conversion of an existing one.
- Operators submit this application to a sponsor (a local school board, the state board of education, or some other *public* entity), which can either approve or deny it.
- If the sponsor approves, a contract, or charter, is drawn up committing the operators to the terms described in the application. If the school fails to meet these terms, the charter may be revoked.
- Since no students are assigned to the school, it must attract enough students—and teachers—to remain open. As under most choice plans, per-pupil funding follows students to the school.
- In return for assuming accountability for student performance, charter schools are exempted from collective bargaining agreements, district policies, and most or all state education laws and regulations. They are free to manage their own budgets, hire and fire staff, set salary levels, and so forth.

Like a private school, then, a charter school is

relatively autonomous and must attract students to survive. Like a public school, it must accept all who enroll, free of charge. It cannot have a religious focus. And it is held accountable to the public as a whole, not just to its own customers, through the charter.

State Legislation

As of September 1995, 19 states had passed charter school legislation, many with bipartisan support:

- 1991: Minnesota
- 1992: California
- 1993: Colorado, Georgia, Massachusetts, Michigan, New Mexico, and Wisconsin
- 1994: Arizona, Hawaii, and Kansas
- 1995: Alaska, Arkansas, Delaware, Louisiana, New Hampshire, Rhode Island, Texas, and Wyoming

Laws in some states are quite expansive. That is, the laws enable many schools to form, and those schools are genuinely autonomous, accountable organizations. In other states the laws are quite restrictive, permitting only a few charter schools to form and/or limiting the independence of those schools. A charter school law will be expansive to the extent that it (a) permits a large or unlimited number of schools to form, (b) permits a variety of operators to start schools, (c) permits a variety of sponsors, (d) permits existing schools to convert and new schools to start, (e) establishes an appeals process for denied charters, (f) provides a blanket waiver from education laws and regulations, (g) gives the school complete control over personnel decisions, and (h) defines the school as a legally and financially autonomous entity, among other criteria.

States with the most expansive laws include Arizona, California, Colorado, Delaware, Massachusetts, Michigan, and Minnesota. States with the most restrictive laws include Alaska, Arkansas, Georgia, Hawaii, Kansas, New Mexico, Rhode Island, Wisconsin, and Wyoming.

Some states have amended their original laws to make them more expansive. In Minnesota, for example, the original legislation permitted only 8 charter schools to form; local boards were the only eligible sponsor; and there was no appeals process. Now the cap has been raised to 40; public colleges and universities may sponsor charter schools; and denied charters may be appealed to the state board of education.

In general, charter school laws passed in 1995 have been more restrictive than many expected.

Indiana's Charter School Bills

Three different charter school bills were introduced during the 1995 session of the Indiana General Assembly, all of which eventually were consolidated into a single bill, House Bill (HB) 1465. In its original form, HB 1465 would have been one of the most expansive charter school bills in the country. It would have permitted an unlimited number of charter schools to form, provided for multiple operators and sponsors, and defined charter schools as autonomous both legally and financially, among other provisions.

HB 1465 was withdrawn before a floor vote in the House, but an amended version was eventually attached in the Senate to HB 1443 (which had passed the House as a county director pay adjustment bill). Most of the amendments served to dilute the more expansive provisions of the original charter school bill. For example, the local school board became the only eligible sponsor (with no appeal available). Had this bill passed in its final form, it would have been among the more restrictive charter school laws in the nation. The Senate passed HB 1443, but the bill died in conference committee.

The General Assembly did pass a Freeway School law, which is similar in some respects to a charter school law. Indeed, passage of this law was

one reason the charter school bill did not muster as much support as it might have otherwise.

Charter Schools in Operation

Of the 226 charter schools in operation around the country in September 1995, 214 of them were located in the six pre-1995 states with the most expansive charter school laws (Arizona, California, Colorado, Massachusetts, Michigan, and Minnesota), while only 12 were in the five states with the most restrictive laws (Georgia, Hawaii, Kansas, New Mexico, and Wisconsin). (No schools had yet opened or been approved in any state that passed a charter school law in 1995.) Obviously, expansive laws make a difference.

Although the charter school movement is still young, some questions are starting to be answered:

- Most charter schools (especially new starts) are small, and there are considerably more elementary than secondary schools.
- Charter schools serve a student population comparable to the overall public-school population in terms of race and socioeconomic status—not an elite population of upper-middle-class white students, as some had feared. Indeed, many charter schools have been designed explicitly to serve at-risk students.
- The schools are experimenting with a variety of educational approaches, the most popular of which appear to be interdisciplinary instruction, expanded use of technology, increased parent involvement, performance assessments and portfolios, and back-to-basics instruction.
- Two major barriers confront most charter school operators: lack of capital funds and lack of legal and business expertise. A number of other barriers, including special education, lack of clarity in legislation, and problematic relationships with school districts and teachers' unions have also vexed many charter schools.
- Evidence suggests that parent involvement in charter schools is higher than in comparison public schools. However, one of the methods by which some charter schools increase parent involvement—requiring parents to sign a contract committing them to a certain level of involvement each month at the school—has been called into question as a possible method of screening students.
- Several districts around the country have made changes that are clearly in response to the existence, or the threat of the existence, of a charter school. Otherwise, however, the effect of charter schools on the public system as a whole has been fairly limited thus far.
- The effect of charter schools on student achievement has yet to be documented. There are indications, however, that many approved charter schools are failing to develop rigorous performance expectations for students and to specify with precision the methods by which performances are to be measured.

Recommendations

Some important questions about charter schools are starting to be answered. Answers to other questions, particularly those involving the effect of charter schools on (a) the public school system as a whole and (b) student achievement, have yet to emerge. The jury is still out, therefore, on the overall significance of the charter school movement.

With such key questions remaining, legislators have two defensible options. The first is to defeat charter school legislation. After all, this education reform entails some risks that legislators may not be willing to run: that local school board control and teachers' unions may be undermined or that public funding may be used to support forms of education not widely acceptable to the public at large, for example. To the extent that these kinds of risks feature prominently in legislators' thinking about

public education, they have good reason to defeat charter school bills.

On the other hand, if legislators believe that the potential benefits of charter schools (e.g., expanded choices for students and teachers, increased responsiveness on the part of schools to education consumers, and, ultimately, improved student achievement) outweigh the risks, then they have good reason to pass charter school legislation. Any such legislation, whether expansive or restrictive, should probably contain the following provisions, intended to make it as fair, equitable, and effective as possible:

- Prohibit charter schools from setting admission requirements for students.
- Require approval by a supermajority of teachers in a public school considering conversion.
- Maintain teachers' participation in the teacher retirement system on the same basis as all other public school teachers.
- Require charter applications to include rigorous student performance goals and a well-defined assessment plan to measure student progress toward those goals.

(Additional recommendations are provided in the report.)

Expansive charter school legislation, which would be most likely to promote the creation of a variety of genuinely independent charter schools, would include the following additional provisions:

- Permit many charter schools to form.
- Permit a variety of sponsors and operators.
- Provide a blanket waiver for charter schools.
- Give charter school teachers a variety of employment options.
- Permit a proportion of teachers in each charter school to be uncertified.
- Designate charter schools as legally and financially autonomous entities.
- Provide 100% of state and local per-pupil operating funds to charter schools.

(Again, additional recommendations are provided in the report.)

Compromises can be made in some of these provisions without placing too many restrictions on the formation and independence of charter schools. For example:

- Permit fewer schools to form.
- Limit sponsorship to local school boards but allow an appeals process to the state board of education.
- Prohibit for-profit businesses from operating charter schools.
- Identify a handful of key state education statutes and regulations with which charter schools must comply.

More compromises than these would tend to make passage of charter school legislation pointless. As experience in other states has shown, if the legislation is too restrictive, few charter schools will form, and those that do may not be independent enough to make much difference.

INTRODUCTION

When the Indiana Education Policy Center published a policy bulletin on charter schools in January 1993 (Williams & Buechler, 1993), only two states—Minnesota and California—had passed charter school legislation. Only four small charter schools had been approved, all in Minnesota.

As of September 1995, a total of 19 states had passed charter school legislation; at least 16 others (including Indiana) had considered such legislation; 250 charter schools had been approved; and 226 of them were open, some with waiting lists numbering in the hundreds. Charter schools have been the focus of a cover story in *Time* and front page stories in the *New York Times* and the *Wall Street Journal*. With the approval of President Clinton and Secretary of Education Richard Riley, a charter school grant program—based on legislation first introduced by Republican Senator Dave Durenburger of Minnesota—was included in last fall's reauthorization of the Elementary and Secondary Education Act. In short, charter schools are beginning to look like a full-fledged, bipartisan educational movement.

It is not a movement without glitches, however. One charter school in California was shut down by its sponsor for financial mismanagement before the end of its first year of operation. Others managed to make it through their first year at the cost of high staff turnover, considerable turmoil for students, or near bankruptcy. Michigan's original charter school law, one of the nation's most far-reaching, was struck down, at least temporarily, by the courts. Charter school operators complain of formidable organizational and financial barriers to opening new schools. And many legislators and educators remain opposed to the concept, including such influential organizations as teachers' unions and local school board associations.

Indeed, almost as many states have defeated charter school legislation as have passed it, including Indiana, where a charter school bill died in conference committee. However, given the current education policymaking trend in Indiana—indeed in many states—toward deregulation and decentralization, charter schools will in all likelihood be on the legislative agenda again in 1996.

This is an opportune time, then, to revisit the charter school movement, to see what kinds of laws states are passing and how existing charter schools are faring. Before addressing these issues, this report provides in chapter 1 some background information on charter schools: a discussion of trends leading to the charter school movement, a definition of charter schools, and arguments for and against this education reform. Chapter 2 analyzes charter school laws in all 19 states, with a particular focus on (a) elements of the laws that make the development of charter schools more or less likely, (b) amendments to charter school laws over the years, and (c) trends in 1995 legislation. Chapter 3 examines the progress—and ultimate demise—of charter school legislation in Indiana during the 1995 session of the General Assembly. Chapter 4 summarizes and analyzes the existing research on approved and operating charter schools around the country, including sections on (a) school type, (b) school size, (c) student population, (d) educational approaches, (e) barriers to formation, (f) parent involvement, (g) effect on the public school system as a whole, and (h) student achievement. Finally, chapter 5 offers recommendations for policymakers.

CHAPTER 1

BACKGROUND AND DEFINITIONS

Education Reform in the 1990s

By the beginning of this decade, six trends in education policy had laid the groundwork for the charter school movement:

- *Accountability:* performance-based accreditation, school improvement awards, publication of test scores, and other attempts to judge schools and educators by results, not inputs;
- *Deregulation:* eliminating many of the regulations under which schools operate and which, according to many critics of public education, were stifling innovation in the classroom;
- *Decentralization:* site-based management, teacher empowerment, and other efforts to provide those closest to the delivery of services—teachers and principals—with greater decision-making authority;
- *Restructuring:* attempts to effect fundamental change in the purpose, organization, and operation of schools;
- *Public School Choice:* intradistrict and interdistrict choice plans that let parents choose the public school their children attend;
- *Private School Vouchers:* a growing chorus for a more radical form of choice—private school voucher plans under which parents would receive a voucher from the government that they could use to send their children to any school, public or private.

Most of these trends were at least in part attempts to inject free market forces—competition, accountability, efficiency, responsiveness to customers—into what many perceived as an over-regulated, over-centralized public education monopoly with a strong allegiance to the status quo and no institutional incentive to improve student performance.

Still, despite the overheated rhetoric one often heard (such as comparing the education system to communist regimes), many, if not most, Americans maintained a commitment to public education. They continued to believe that, for all its flaws, public education was one of the major achievements of the American democratic system, bringing together children of all races, creeds, and classes to learn skills and ideas that would give each child a chance to succeed in life.

In a sense, charter schools can be seen as a compromise that embraces many of the dynamic forces of the free market while at the same time adhering to the core ideals of public education.

What Are Charter Schools?

As we shall see, there are almost as many definitions of charter schools as there are pieces of charter school legislation. However, in its original

form—the form envisioned by early charter school theorists such as Ted Kolderie—a charter school may be defined as follows:

A charter school is an autonomous, results-oriented, publicly funded school of choice that is designed and run by teachers or others under contract with a public sponsor.

In more detail, here's how a charter school works (again, this is the original idea; actual mechanisms vary from state to state):

- *Operator:* Teachers, parents, non-profit organizations (such as museums or social service agencies), businesses, or other individuals or groups develop an application to start a charter school. The application describes the school's educational program, the expected student performance levels, the methods by which that performance will be measured, the governance structure of the school, and so forth. The application may be for a brand new school or for the conversion of an existing school.

- *Sponsor:* The operators seek a sponsor for their charter school. The sponsor may be a local school board, a state board of education, a state superintendent of public instruction, a university, a community college, or some other *public* entity. The function of the sponsor is, first, to determine whether or not the school is worth approving, and second, to make sure approved schools abide by their charters.

- *Charter:* If the sponsor approves the school, a contract, or charter, is drawn up committing the operators to the terms described in the application. Charters are generally granted for a period of three to five years. If a school fails to abide by the terms set forth in the charter, particularly the provisions on student performance, the sponsor may revoke the charter.

- *Choice:* No student—or teacher—is assigned by a district to a charter school. Rather, parents choose whether to enroll their children in the school, and teachers decide whether to teach there. As under most choice plans, per-pupil funding follows students to the school.

- *Exemptions:* In return for agreeing to be held accountable for student performance, charter schools are exempt from collective bargaining agreements, district policies, and most or all state education laws and regulations (but not from health and safety codes, fiscal review standards, and the like). They are free to manage their own budgets, hire and fire staff, set salary levels, sue and be sued, and do all sorts of other things that regular public schools cannot.

- *Public Education:* Like regular public schools, charter schools must accept all students who enroll. If there are more applicants than spaces, students are selected by lot. Charter schools cannot charge tuition or discriminate against any student because of race, gender, or disability. Finally, they must be nonsectarian. If an existing private school becomes a charter school, it must agree to abide by these long-standing principles of public education.

In short, a charter school is a hybrid, resembling a private school in some ways and a public school in others. Like a private school, a charter school is relatively autonomous. It can operate free from most education laws and rules, free from district oversight, and in control of its own curriculum, budget, and personnel. Also, it must attract and keep students, or it will fail. Like a public school, a charter school is funded by taxpayer dollars. It must accept all who enroll, free of charge. It cannot have a religious focus. And it is held accountable, through the charter, by a school district or some other public entity.

This dual form of accountability is one of the most appealing aspects of charter schools. On the one hand, a charter school is directly accountable to customers—that is, to students and parents—who may protest with their feet if they are not satisfied.

On the other hand, a charter school is indirectly accountable to the public as a whole through the public's representatives (either elected or appointed officials). These representatives may close the school if it is not fulfilling the terms of its charter, no matter how satisfied students and parents are.

According to a generally accepted version of modern economic theory, K-12 education is both a private good, enhancing the lives of individuals, and a public good, contributing to overall economic growth and effective citizen participation in the democratic process. Therefore, a charter school's two-pronged system of accountability may be an appropriate compromise between the current public education system, with little or no market accountability, and a voucher system, with little or no accountability to the public at large.

Pros and Cons

What are the potential advantages and disadvantages of charter schools? Advocates say such schools will:

- curtail bureaucracy, letting operators and teachers concentrate on producing results rather than complying with regulations;
- hold operators and teachers accountable for student performance;
- provide concrete incentives to school personnel by linking improved student achievement to the survival of their jobs and of the school itself;
- facilitate innovation in areas such as organizational structure, scheduling, staffing, curriculum and instruction, and assessment;
- increase parent involvement;
- expand the range of educational options for students;
- expand the range of professional options for teachers;
- provide both competition and models that may spark districts to improve their own schools.

Autonomy, accountability, and choice—all within the public school context—are forces that can change America's schools for the better, say charter school advocates.

Opponents of this education reform, on the other hand, worry that charter schools will actually undermine public education. Among the issues they raise:

- Charter schools will siphon badly needed funds from public school systems.
- Charter schools will undermine the hard-won collective bargaining and tenure rights of teachers.
- Whatever the original intent of the laws, charter schools will become elite, pseudo-private academies supported by public funds, increasing the segregation of schools by race and class.
- Charter schools are simply another attempt by private school advocates to gain a public subsidy for private education.
- Innovation is already abundant in public schools. Charter schools will do little more than duplicate current efforts.
- Charter schools are not the only schools that would benefit from fewer regulations. All public schools should have the same opportunities.
- Charter schools are touted as a revenue-neutral reform, but if new schools are established or if formerly private schools convert to charter school status, states may find themselves paying extra dollars for students who were previously outside the public school system.
- While meeting the basic terms of their contracts, charter schools may teach some things that the public may not want, such as creationism, or fail to teach things that the public expects, such as patriotism.

Claims are one thing. Experience is another. What guidance does the experience of states with charter school laws provide in determining the value of this new education reform? To answer this question, we need to examine legislation in the charter school states and look at the progress thus far of actual charter schools.

CHAPTER 2

STATE LEGISLATION

Total Number of States

To date, 19 states have passed charter school legislation (see Table 1). These states represent all regions of the country and range from large states with millions of students (California and Texas) to small (Rhode Island) or sparsely populated states (Alaska).

Bipartisan Support

Such legislation has not been the province of one political party or the other. As Table 1 shows, 10 Democratic and 9 Republican governors have signed charter school bills into law. Democrats were the majority party in 11 Houses that passed charter school laws, Republicans in 7 (the Michigan House was split). In state Senates, Democrats were the majority party in 12, Republicans in 7.

Expansive and Restrictive Legislation

As followers of the charter school movement have come to realize over the past two years, not all charter school laws are created equal (see, for example, Bierlein & Mulholland, 1995; Millot, 1995; Wenning, 1995). Some state laws have spawned dozens of self-governing schools that are operated by a variety of organizations and individuals, free from most regulations, and legally and financially autonomous. In other states, years have

TABLE 1
Parties in Control of the House, Senate, and Governor's Office in States When Charter School Bills Were Passed

State (yr. law passed)	House	Senate	Governor
Minnesota (1991)	D[1]	D	D
California (1992)	D	D	R[1]
Colorado (1993)	R	R	D
Georgia (1993)	D	D	D
Massachusetts (1993)	D	D	R
Michigan (1993)	split	R	R
New Mexico (1993)	D	D	D
Wisconsin (1993)	D	D	R
Arizona (1994)	R	R	R
Hawaii (1994)	D	D	D
Kansas (1994)	R	R	D
Alaska (1995)	R	R	D
Arkansas (1995)	D	D	D
Delaware (1995)	R	D	D
Louisiana (1995)	D	D	D
New Hampshire (1995)	R	R	R
Rhode Island (1995)	D	D	R
Texas (1995)	D	D	R
Wyoming (1995)	R	R	R
Totals	D = 11.5[2] R = 7.5[2]	D = 12 R = 7	D = 10 R = 9

[1]D=Democrat
R=Republican
[2]The decimal reflects the split in the Michigan House.

Sources: Conversations with officials from each state.

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come and gone since the initial passage of the legislation without a single charter school having been established, so limited are the incentives for charter schools and so burdensome is the process of becoming one.

The following 12 criteria can be used to determine whether a charter school law is expansive (i.e., facilitates the development of autonomous charter schools) or restrictive (i.e., provides little incentive for charter school development):

- **Number of schools:** States that permit many charter schools encourage more activity than states that permit few.
- **Variety of sponsors:** States that permit multiple sponsors (such as local school boards, state boards, and universities) encourage more activity than those that vest authorizing power in a single entity, particularly if that entity is the local school board.
- **Variety of operators:** States that permit a variety of groups or individuals (such as teachers, parents or other citizens, non-profit organizations, and businesses) to start new charter schools encourage more activity than states that limit eligible operators to particular groups or individuals, such as licensed teachers.
- **Variety of schools:** States that permit existing schools to convert and new schools to start from scratch encourage more activity than those that permit only conversions.
- **Appeals process:** States that allow potential operators to appeal denied charters to a different authorizing body encourage more activity than states with no appeals process.
- **Evidence of support:** States that permit charter schools to be formed without demonstration of a specified level of support from teachers, parents, and community members encourage more charter school activity than states that require such demonstrations of support.
- **Blanket waiver from laws and regulations:** States that provide blanket waivers from most or all state and district laws and regulations encourage more activity than states that provide no waivers or require charter schools to negotiate waivers on an issue-by-issue basis with sponsors.
- **Exemption from collective bargaining:** States that give charter schools complete control over personnel decisions (hiring, firing, salary structure, etc.) encourage more activity than states in which charter school teachers remain subject to district collective bargaining agreements.
- **Legal autonomy:** States in which charter schools are legally autonomous entities—able to sue and be sued, acquire property, etc.—encourage more activity than states in which charter schools remain under district jurisdiction.
- **Funding process:** States where 100% of per-pupil funding (based on average state or district per-pupil costs) automatically follows enrolled students to charter schools encourage more activity than states where the amount of funding must be negotiated with the district and, inevitably, reduced.
- **Financial autonomy:** States that give charter schools control over their own budgets encourage more activity than states that do not.
- **Start-up funds:** States that provide start-up funds to charter schools encourage more activity than states that do not.

Expansive State Laws (pre-1995)[1]

As Table 2a indicates, states vary considerably in their approach to these issues. Only one state,

[1]The discussion and tables in this chapter are divided into two parts: (a) states that passed charter school laws before 1995 and (b) states that passed charter school laws in 1995. The main reason for this division is that states that passed laws prior to 1995 have a record. We can examine not only the laws, but amendments to the laws and results of the laws. States that passed laws in 1995 are at the very beginning of the charter school process, and much less is known about how the laws will play out. Also, some interesting trends have developed over the past year which merit discussion on their own.

TABLE 2a
Comparison of Charter School Laws on Selected Issues (for states that passed legislation before 1995)[1]

Issue	MN (1991)	CA (1992)	CO (1993)	GA (1993)	MA (1993)	MI (1993)	NM (1993)	WI (1993)	AZ (1994)	HI (1994)	KS (1994)
Number permitted	40	100	50 through 1997	no limit	25	no limit[2]	5	no limit	no limit[3]	25	15
Eligible sponsors	LSB,[4] public college or university, all subject to SBE[4] approval (charter school need not be located in sponsoring district)[5]	LSB[4]	LSB	SBE (petition must first be approved by LSB)	state secretary of education	LSB, intermediate school board, community college, or state university	SBE	LSB	LSB, SBE, or State Board for Charter Schools	SBE (which must approve a charter as long as it is in compliance with statewide performance standards)	LSB, subject to SBE approval
Eligible operators	one or more certified teachers	one or more persons	anyone	public school personnel	businesses, certified teachers, parents, others	one or more persons or an entity	public school personnel	any person	public body, private person, private organization	public school personnel	teachers, educational services contractors, other persons or entities
Eligible schools	existing public, existing private, new	existing public, new	existing public, new	existing public	existing public, new	existing public, existing private, new	existing public	existing public, new (and, in Milwaukee, existing private)	existing public, existing private, new	existing public	existing public, new
Appeals process for denied charters	yes, may appeal to SBE	yes, may appeal to the county board of education	yes, may appeal to SBE	SBE may hold hearing if LSB denies charter	no	petition may be placed on local ballot or submitted to alternative sponsors	no	no (except in Milwaukee)	petition may be submitted to alternative sponsors	no	no
Charter school can be established without evidence of local support	yes for new starts; no for conversions--90% of teachers must support	no--10% of teachers in the district or 50% in a school must approve	no--adequate number of parents, teachers, and/or students must support	no--majority of teachers and parents in school must support	yes	yes	no--65% of teachers must support; support and substantial involvement of parents must be evident	no--10% of teachers in the district or 50% in a school must support	yes	no--three fifths of staff and parents must support	no--must demonstrate interest on the part of district employees, parents, and community members
Blanket waiver from most state education laws and regulations	yes	yes	no	no	no	no	no	yes	yes	yes	no
Teachers exempt from district collective bargaining agreement	yes	depends on charter	depends on charter	not applicable--Georgia is not a collective bargaining state (but teachers remain employees of the district)	yes	yes, unless charter school is sponsored by LSB	no	no	yes	no	depends on charter
Legally autonomous	yes	depends on charter	no	no	yes	yes	no	no	yes[7]	no	no
Full operations funding flows to charter school based on average state or district per-pupil revenue	yes	no; average district base and special education revenue flows to charter school, but other categorical program funding must be negotiated	no (minimum of 80%; rest depends on charter)	depends on charter	yes	yes	no	no	yes	yes (charter school must reimburse state for administrative services if it uses them, up to 6.5% of allocation)	no
Control over budget	yes	depends on charter	yes	depends on charter	yes	yes	yes	depends on charter	yes	no	yes
Start-up funds	no	no	no	10 schools got $5,000 planning grants	$35,000 per school	no	10 schools got $5,000 planning grants	no	$1 million (maximum of $100,000 per school)	no	no

[1]Information in this table is drawn from the most current legislation in each state, which in some cases differs from the original legislation.
[2]Community colleges in Michigan may sponsor only one charter school apiece; state universities may sponsor a total of 75 charter schools; and local school boards and intermediate boards may sponsor an unlimited number of charter schools.
[3]Each fiscal year, the Arizona State Board of Education and the newly created State Board for Charter Schools may sponsor 25 charter schools each. Local school boards may sponsor an unlimited number of charter schools.

Sources: Legislation from each state; conversations with officials from each state; Bierlein & Mulholland, 1994; Bierlein & Mulholland, 1995; Millot, 1995; Wenning, 1995.

[4]LSB = Local School Board; SBE = State Board of Education.
[5]If an appeal is sought in Minnesota, the SBE may grant a charter.
[6]If an appeal is sought in California, the county board of education may grant a charter. If an entire district becomes a charter school district, which is an option, then the SBE and state superintendent of public instruction may grant charters.
[7]Charter schools in Arizona are legally autonomous if they are sponsored by the SBE or the State Board for Charter Schools (which the vast majority are). If they are sponsored by the LSB, their legal status depends on the charter.

TABLE 2b
Comparison of Charter School Laws on Selected Issues (for states that passed legislation in 1995)

Issue	AK (1995)	AR (1995)	DE (1995)	LA (1995)	NH (1995)	RI (1995)	TX (1995)	WY (1995)
Number permitted	30	no limit	5 each of first three years, then no limit	no more than one teacher- or community-initiated charter school per 20,000 students in 8 selected districts; an unlimited number of LSB-[1] initiated charter schools in same 8 districts	5 by 1997; 10 per year for the following three years; no limit thereafter	20 (10 by 1996-97 school year, 10 by 1997-98)	unlimited number of public school conversions; 20 new starts	no limit
Eligible sponsors	LSB, subject to SBE[1] approval	SBE (with approval of LSB and local bargaining unit)	LSB for conversions; LSB or SBE for new starts	LSB (after it is approved as one of eight by SBE)	LSB (with voter and SBE approval)	State Board of Regents, after charter has been recommended by LSB or state commissioner of education	LSB for conversions; SBE for new starts	LSB
Eligible operators	anyone	public school personnel	any person, college, university, or nonsectarian entity	3 or more teachers alone or in tandem with 10 or more citizens, a public service organization, a business, or a college or university	non-profit organizations; 2 or more certified teachers; 10 or more parents	public school personnel; groups of public school personnel; school district personnel	public or private institutions of higher education, non-profit organizations, governmental entities, parents and teachers at existing public schools	public school or school district personnel
Eligible schools	not specified in the law, but probably existing public, existing private, new	existing public	existing public, new	existing public, new	existing public, new	existing public, new	existing public, new	existing public, new
Appeals process for denied charters	no	no	no	no	yes, may appeal to SBE	no	no	no
Charter school can be established without evidence of local support	yes	no--two thirds of school employees and two thirds of parents must support	no--50% of teachers and 50% of parents must support	no--two thirds of faculty and staff and two thirds of parents must support	yes for new starts; no for conversions--majority of teachers in the school, the school principal, and the district superintendent must support	no--two thirds of teachers and half of parents must support	no--a majority of parents and teachers at a conversion school must support, and a new start must give some evidence of support	no--10% of teachers and parents in the district or 50% of teachers and parents in a school must support
Blanket waiver from most state education laws and regulations	no	no	yes	yes	yes	no	yes (with several exceptions)	no
Teachers exempt from district collective bargaining agreement	no	no	yes	no, unless specifically called for in charter	yes	no	for conversions, no; for new starts, yes	no
Legally autonomous	no	no	yes	yes	yes	no	for conversions, no; for new starts, yes	no
Full operations funding flows to charter school based on average state or district per-pupil revenue	no (a portion is subtracted for administrative costs)	to be determined in rules and regulations	yes	yes	no, charter schools get two thirds of average spending per-pupil	yes	for conversions, no (district is responsible for distributing funds); for new starts, yes	no
Control over budget	yes	no	yes	yes	yes	yes	for conversions, depends on charter; for new starts, yes	depends on charter
Start-up funds	no	no	no	no	no	no	no	no

[1]LSB = Local School Board
SBE = State Board of Education

Sources: Legislation from each state; conversations with officials from each state; Bierlein & Mulholland, 1995.

Arizona, proves to be expansive in all twelve areas. Arizona permits an unlimited number of charter schools to be established. It lets virtually any individual or organization, public or private, petition to start a charter school. It requires no demonstration of support from public school teachers or parents. Unique among state laws, Arizona's creates a state body—the State Board for Charter Schools—whose sole charge is to examine petitions, approve or deny charters, monitor charter schools, and recommend additional legislation to facilitate the formation of charter schools. The state board of education and local school boards may also sponsor charter schools. An applicant turned down by one body can apply to another.

In Arizona, full funding follows enrolled students to the charter school. For schools sponsored by a district, the amount that follows each student equals the average districtwide per-pupil cost. For schools sponsored by either of the state bodies, the amount equals the average statewide per-pupil cost. The state allocated $1,000,000 for start-up funds, though no school may receive more than $100,000.

Arizona charter schools are legally and financially autonomous and automatically exempt from state laws and regulations, district policies, and collective bargaining agreements. Finally, the law allows existing public or private schools to convert and new schools to form.

Other states with the most expansive charter school legislation include (roughly in order from more to less expansive):

- Michigan
- Massachusetts
- Minnesota
- California
- Colorado

Michigan's law is noteworthy in that it permits four public entities to sponsor charter schools: school districts, intermediate districts, community colleges, and public state universities. This provision has spawned a tremendous amount of activity in the state, despite court battles that initially threatened to derail the charter school movement there.

California's law leaves many issues open for negotiation between the charter applicant and the school district (rather than specifying them in advance, as other states do), including just how free the charter school will be from district oversight and local bargaining agreements. According to some observers (see, for example, Dianda & Corwin, 1994), this open-ended approach can have adverse effects on the chartering process, causing some operators to compromise independence to get authorized.

Colorado's law is interesting for another reason. Despite clear restrictions in the law (the local school board is the only sponsor, there is no automatic exemption from state laws, and charter schools are not legally autonomous, for example), the state has seen considerable charter school activity. As of September 1995, 24 charter schools had opened.

This degree of activity suggests the importance of two criteria. First, anyone in Colorado—parents, non-profit foundations, community members, businesses, and others—can start a new charter school. This provision makes it possible for different groups and organizations, some of them with unconventional ideas, to petition to start schools.

Second is the appeals process. If a state permits only one entity to sponsor charter schools, and particularly if that entity is the local school district (which has little incentive to sponsor schools), charter school activity can be stifled. If, however, potential applicants know that the district's decision may be appealed to another body—in Colorado's case the state board of education—and that that body will give them a fair hearing, they may be emboldened to proceed. In fact, several applications in Colorado were initially denied by districts only to be approved after an appeal to the state board. One application, for the Thurgood Marshall Middle School, was twice denied by the Denver school board. However, the Denver board was eventually ordered by the state board and a district judge to sponsor the school. (The state appeals court stayed the judge's order pending the

outcome of the district's appeal, so the charter school still has not opened [Hill, 1995].)

Restrictive State Laws (pre-1995)

Georgia is one of only four pre-1995 states that allow an unlimited number of charter schools, and one of four that provide charter schools with some start-up funds (in the form of planning grants). Ironically, however, it took more than a year after Georgia's law was passed in 1993 for a single school to apply for charter status, and another year for a school to be approved. The first three charter schools in Georgia did not begin operating until September 1995.

The main reason for this lack of applications is the structure of the rest of Georgia's law. First, the law allows only existing public schools to become charter schools. Two thirds of the teachers and parents in the school must approve before the school can convert (changed to a simple majority in 1995; see next section). No new schools can be developed, and no one outside the existing public school system can start a school. Second, the state board of education is the sole body that can sponsor a charter school, and it may do so only after the charter has been approved by the school district. Though the state board may hold a hearing to examine charters denied by the district, it is not required to do so.

Third, schools that do convert are still legally part of the district and subject to some oversight. Fourth, charter school teachers remain employed by the district, not the individual school. Finally, charter schools do not receive an automatic exemption from state or district laws and regulations. Rather, they must specify in the charter the laws and regulations from which they seek relief.

With so little for Georgia charter schools to gain in terms of flexibility and autonomy, the lack of activity is not surprising. What this suggests is that the number of schools allowed by legislation is often less important in generating activity than the actual chartering process and the incentives for charter schools.

Other states (pre-1995) with restrictive charter school laws include Hawaii, Kansas, New Mexico, and Wisconsin.

Amendments to State Laws (pre-1995)

Charter school legislation in six states has been amended over the years, and, as Table 3 indicates, the amendments have often served to make the original laws more expansive by (a) adding incentives, (b) removing hurdles, or (c) confirming charter school autonomy.

In Minnesota, for example, the original legislation permitted the establishment of only 8 charter schools. That cap has gradually been raised to its current level of 40. Initially, local school boards could sponsor a maximum of 2 charter schools each; there was no appeals process; and local boards were the only eligible sponsor. Now, the cap on the number of charter schools a local school board may sponsor has been eliminated; denied charters may be appealed to the state board (which becomes the sponsor if it overturns the denial); and public colleges and universities, as well as local school boards, may sponsor charter schools (though they are limited to a total of three). After the Minnesota attorney general's office determined that under the original law, charter school teachers were ineligible for the state teacher retirement system, the law was changed to make them eligible. Finally, the law now authorizes charter schools to lease space from for-profit nonsectarian organizations. Originally, they could lease only from nonprofit organizations.

Wisconsin has gone a step farther than Minnesota and eliminated its cap on the number of charter schools and the number of districts that could sponsor charter schools. Among other changes, Wisconsin also eliminated the per-pupil cost cap, whereby school districts were forbidden to spend more money per pupil on charter schools than on

TABLE 3
Major Changes in Charter School Laws (through September 1995)

State (year original law passed)	Amendments[1]
Minnesota (1991)	• *number of schools:* raised the statewide cap from 8 to 40 and eliminated the cap on the number of charter schools a local school board could sponsor • *sponsor:* allowed public colleges and universities, as well as local school boards, to sponsor charter schools (though it limited the number of charter schools sponsored by a college or university to three); also required that, if a charter school is located outside the sponsoring district, the district in which it is located must agree to the arrangement (if it refuses, the sponsoring district may appeal to the state board of education) • *appeals:* added an appeals process (to state board) • *evidence of support:* required 90% of an existing public school's teachers to sign a petition before the school could convert *Other amendments:* • declared charter school teachers eligible for the state teacher retirement system • authorized charter schools to lease property from for-profit and sectarian organizations • removed the clause stating that charter schools could limit admissions to students with an "affinity" for the school's program • prohibited existing schools from converting to charter schools solely to remain open • prohibited home-based schools from becoming charter schools • required charter schools to comply with the Minnesota open meeting law • gave charter schools the option of providing transportation (and receiving transportation aid from the state) or continuing to let the district provide transportation • required that the distribution of information on charter schools be targeted toward low-income and minority families
Georgia (1993)	• *evidence of support:* lowered from two thirds to a simple majority the proportion of teachers needed to approve conversion to a charter school *Other amendments:* • required the state board of education to give preference to charter schools for certain state grant funds • extended the length of the charter from three to five years
Massachusetts (1993)	• *funding:* streamlined the funding mechanism so that funds flow directly from the state to charter schools rather than through districts
Michigan (1993)	• *sponsor:* reduced university sponsorship to 75 total charters *Other amendments:* • made explicit that charter schools are subject to the leadership of the state board of education[2] • defined the duties of the sponsor to appoint the charter school's governing board • specified the term of office of the charter school's governing board • specified that members of a charter school's board are holders of public office • specified that charter schools must comply with all state and federal church/state laws
Wisconsin (1993)	• *number of schools:* lifted the cap on the number of charter schools and sponsoring districts • *sponsor:* removed the requirement that the local school board must receive approval from the state superintendent to sponsor charter schools *Other amendments:* • lifted the per-pupil cost cap, enabling districts to spend more on charter schools than on regular schools • in Milwaukee only, added an appeals process, allowed private schools to convert to charter schools, and allowed teachers not to be district employees
Arizona (1994)	• *sponsor:* absolved sponsors from liability for acts or omissions of charter schools • *funding:* provided that money flow from the state treasury through the county in which the charter school is located to the charter school, rather than straight from the state to the charter school *Other amendments:* • declared charter school teachers eligible for the state teacher retirement system • required fingerprint checks for charter school operators and noncertified employees

[1]Amendments addressing any of the twelve categories of expansiveness defined earlier in the chapter are listed first, followed by other amendments.
[2]This and the following four amendments to Michigan's law were made in response to a court decision finding the initial charter school law unconstitutional because it usurped the power of the state board to oversee public schools.

Sources: Legislation from each state; conversations with officials from each state; Michigan Center for Charter Schools, 1994.

other schools in the district. Wisconsin's law is still fairly restrictive, however, in that charter schools remain subject to some district oversight, districts remain the only eligible sponsors for charter schools, and there is no appeals process (except in Milwaukee).

The Georgia law now requires the state board to give preference to charter schools in distributing certain grant funds. Also, schools now need approval from a simple majority of teachers and parents, rather than a supermajority of two thirds. Massachusetts changed its funding mechanism so that charter schools no longer have to bill the school district for their funds. Now money goes directly to the charter school from the state.

Not all changes in the laws have been intended to foster additional charter school activity. Some amendments have simply been attempts to clarify the law or to fine-tune it in light of experience. For example, Arizona instituted a requirement that all charter school operators and noncertified employees undergo a fingerprint check. Minnesota added a provision to its law saying that 90% of an existing school's teachers must sign a petition before the school can convert to a charter school. Additionally, Minnesota removed an "academic affinity" clause from its law. The original law had stated that although schools could not base admission on academic ability, they could limit admission to students with an affinity for the school's program. The affinity clause has been removed to clarify the original law's intent that academic ability was not grounds for rejecting an applicant.

Michigan's original law (passed in 1993) was changed the following year in response to a circuit court judge's ruling that the law was unconstitutional. To qualify as public under the Michigan constitution (one of the nation's most restrictive in defining public education), a school must be under the supervision of the state board of education. Because charter schools are governed by privately elected boards of directors, they are largely free from state oversight. Therefore, they do not qualify as public schools, opined county circuit judge William Collette, and they are ineligible for state funds.

Most of the changes in Michigan's rewritten law (which became effective in April 1995) address the judge's concerns by explicitly providing that charter schools be subject to the supervision of the state board of education, that the charter school board of directors be appointed by the sponsor, and so forth. The new law also capped at 75 the number of charter schools that could be sponsored by public colleges and universities. If an appeal of the court ruling proves successful, many of these new provisions will automatically be repealed, and the original law, with a few amendments, will once again be in place (see Michigan Center for Charter Schools, 1994, for a complete analysis of the changes in the Michigan law).

Trends in 1995 Legislation

Of the eight states that passed charter school laws in 1995 (Alaska, Arkansas, Delaware, Louisiana, New Hampshire, Rhode Island, Texas, and Wyoming), Delaware appears to have the most expansive law, perhaps on par with laws in Michigan, Massachusetts, and Minnesota (see Table 2b). The main restrictions in Delaware's law are (a) a fairly strict cap the first three years on the number of charter schools (the cap is eliminated after that) and (b) the absence of an appeals process.

Several other new laws have expansive provisions but place considerable restrictions on sponsorship and appeals. In Louisiana and New Hampshire, for example, the legislation provides for multiple operators, legal and financial autonomy, and blanket exemptions. In Louisiana, however, operators may apply for charters only within eight state-authorized districts. Applications denied by the local school board within any of these districts cannot be appealed to a different body. And in New Hampshire, the chartering process has four-steps requiring voter approval of the concept, local board and state board approval of individual charters, and then voter ratification of each charter. This process, which can take several years, is bound to dampen charter school activity.

Texas' law is interesting in that, although it is

fairly restrictive for existing public school conversions (called campus charter schools), it appears fairly expansive for new starts (called open-enrollment charter schools). However, according to Peggy Hunter, president of Charter School Strategies Inc., who has recently studied the Texas law, there are provisions in the law that make this appearance deceptive. For example, in determining whether to approve an open-enrollment charter, the state board of education must take into consideration an impact statement from school districts whose enrollment may be affected by the new school. If districts claim that the charter school will have an adverse effect on enrollment, the odds that the charter will be approved are low.

Arkansas has one of the most restrictive of the 1995 laws. It is similar to Georgia's in that the number of charter schools is theoretically unlimited but will probably turn out to be quite small given the restrictive sponsorship option, the lack of autonomy of charter schools, and the lack of diversity of sponsors and operators. Alaska's, Rhode Island's, and Wyoming's laws are also quite restrictive.

The paucity of expansive laws in 1995 has taken some charter school observers by surprise. With the influx of Republican governors and legislators across the nation after the November 1994 elections, many observers expected a commensurate increase in the number and expansiveness of charter school laws, with more emphasis on the private, market-driven aspects of charter schools and less on the public aspects. While the number of laws has increased dramatically, though, the expansiveness has not.

Ted Kolderie, one of the originators of the charter school concept, suggests that this trend is the result of a change in strategy on the part of charter school opponents in some states. "The major groups did not try to stop charter bills. They tried to shape charter bills," wrote Kolderie (1995). Their intent, he wrote, was "to hold everything within the framework of the local district" by establishing the local school board as the sole authorizing body and keeping charter school employees under the district collective bargaining agreement. Indeed, the Arkansas Education Association actually initiated the charter school bill in that state. According to Brenda Matthews, assistant to the director for legislative services in the Arkansas Department of Education, the union believed that charter schools were the wave of the future and wanted to draft a bill that it found acceptable. This helps explain why Arkansas is the only state in which, by law, a charter school must receive the approval of the local bargaining unit before it can be established.

There were, of course, many states in which charter school bills were debated and defeated in 1995. Among them were Connecticut, Florida, Idaho, Illinois, Missouri, Nevada, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Vermont, Virginia, and Washington—as well as Indiana.

CHAPTER 3

INDIANA'S CHARTER SCHOOL BILLS

After the 1994 elections, both the House and the Senate in Indiana were controlled by Republicans, the House 56-44 and the Senate 31-19. Indiana's Governor is Evan Bayh, a Democrat.

Partisan politics played a role in many of the legislative debates during the 1995 session and had some effect on the charter school debate as well. Indeed, Democrats were almost united in their opposition to charter schools, and Senate Republicans eventually were unanimous in their support. In the waning days of the session, however, it was a lack of robust support from Republicans in the House of Representatives that ultimately led to the demise of the charter school bill. One reason for this lukewarm support was that several bills promoting deregulation and accountability in public schools had already been passed during the session, including Senate Bill (SB) 274 (Miller-R), the "freeway school" bill. Thus, there was a sense that the General Assembly had gone far enough in that direction for one year.

In its final form, Senate Enrolled Act (SEA) 274 authorizes the establishment of "freeway school corporations" and "freeway schools." Under this program, a school corporation may sign a contract with the state board of education that enables the corporation, or a school within it, to obtain waivers from a number of state laws and rules, including certain curriculum, high school graduation, instructional time, textbook, pupil/teacher ratio, and school construction requirements. The corporation also obtains certain powers under the contract, such as the power to transfer funds from the general fund to the transportation fund and vice versa. In return, the corporation must agree to achieve certain results specified in the legislation, including yearly improvements in test scores, attendance rates, and graduation rates. If it fails to achieve those results, the contract is rendered void.

Now, the freeway school legislation bears some resemblance to charter school legislation; indeed, at one point during the legislative process, individual freeway schools were called "freeway charter schools" (though this language was ultimately deleted). Like charter schools, freeway schools are exempt from certain state statutes, and they are held accountable for results. However, several key elements that would make SEA 274 a charter school law are missing. For one thing, there is no choice involved, either for students or teachers. For another, it is *school corporations*—not individual schools—that sign contracts with the state board and obtain new powers. In short, SEA 274 is essentially a mechanism for freeing and empowering school corporations, leaving the corporations to determine, as in the past, the degree of autonomy of individual schools.

Three actual charter school bills were introduced during the 1995 session, however: House Bill (HB) 1261 (Kruse-R), HB 1465 (Warner-R), and HB 1596 (Bosma-R). SB 485 (Howard-D), which was identical to HB 1465, was introduced in the Senate.

All the charter school legislation was eventually consolidated into a single bill, HB 1465, and Representatives Bosma and Kruse signed on as coauthors of that bill. In its original form, HB 1465 would have been one of the most expansive charter

school bills in the country. It would have:

- permitted an unlimited number of charter schools;
- provided for multiple sponsors (local school boards, educational service center governing boards, the Indiana State Board of Education, and state postsecondary institutions);
- permitted existing public schools as well as existing nonsectarian private schools to convert;
- permitted new schools to form, which could have been started by any individual or nonprofit organization;
- permitted operators whose proposal was turned down by one sponsor to reapply to another;
- permitted charter schools to receive waivers from most state statutes and regulations and all school corporation policies, as long as specific waiver requests were included in the charter;
- defined charter schools as autonomous both legally and financially;
- provided for charter schools to receive funding directly from the state;
- permitted charter school teachers to be unlicensed, designated them as employees of the school (not the school corporation), and exempted them from the corporation collective bargaining agreement (though they would have been permitted to bargain collectively as a separate and distinct bargaining unit);
- required school corporations to grant up to a five-year leave of absence to corporation teachers to teach in charter schools, and let teachers retain retirement benefits and seniority status;
- opened enrollment to students throughout the state;
- provided for the formation of a state charter school panel to review proposed charters;
- required state postsecondary institutions to modify admission procedures so that new evidence of student preparedness, such as performance assessments and portfolios (likely to be used in many charter high schools), would be considered fairly in the event that traditional evidence of student achievement, such as grades and Carnegie units, was unavailable.

The only two features of HB 1465 that may have restricted charter school activity were the following: (a) operators had to specify individual waivers in the charter rather than receiving an automatic blanket waiver and (b) no start-up funds were provided for charter schools.

Support for the bill came from a number of influential business groups, including CLASS (Community Leaders Allied for Superior Schools), COMMIT (a coalition of business leaders), and the Indiana Chamber of Commerce. The Indiana State Teachers Association (ISTA) and the Indiana School Boards Association (ISBA), among others, opposed the original charter school legislation. Although supporting the concept of charter schools in certain situations, the ISTA opposed this legislation on three main grounds:

- Charter schools would drain money from regular school programs.
- Non-licensed teachers would be permitted to teach in charter schools.
- Teachers would be employees of the charter school, not the school corporation, and thus would be unprotected by corporation-wide collective bargaining agreements.

Overall, said Norma Kacen, ISTA government relations national coordinator, "this legislation was designed to weaken public schools and undermine employees' rights."

The ISBA's main concern with the original bill was that entities such as the state board of education could sponsor charter schools without the approval of local boards. "The state board would be lobbied

heavily by private groups who wanted to put charter schools in corporations that didn't want them," said ISBA executive director Frank Bush. "We were vehemently opposed to that provision of the bill."

As the bill progressed through the legislative process, it was amended a number of times, in part due to lobbying efforts by groups such as the ISBA. Most of the amendments served to dilute the more expansive provisions of the original bill (see Table 4, p. 20). For example, the version that passed out of the House Education Committee (on a 7-6 vote):

- limited sponsorship to local school boards (though it did make possible an appeal to the state board of education);
- limited the number of possible charter schools (though the number was still high);
- added more statutes from which charter schools could receive no waiver;
- required charter school teachers to be licensed (unless teaching a subject for which there was no license offered);
- limited enrollment to students within the school corporation where the charter school was located.

A later version eliminated the appeal to the state board, leaving the decision to sponsor charter schools solely in the hands of the local board. Once this change had been made, the ISBA withdrew its opposition.

When HB 1465 came up for its third reading on the floor of the House (the final reading before a vote is taken), Representative Warner proposed an amendment that would have made the bill applicable only to Marion County (Indianapolis). After the amendment was defeated 51-48 (on third reading, amendments require a two-thirds majority), Warner, sensing a lack of support for the bill, withdrew it from consideration. This maneuver made it possible for him to attach the bill as an amendment to another bill later in the session.

Indeed, three weeks later, HB 1269, which passed the House as a capital projects fund bill, was stripped of its original language, and a new version of Warner's charter school bill was inserted in its stead. This version passed the Senate Education Committee 5-3, but the new language was ruled "not germane" to the contents of the original bill, so HB 1269 died.

A fourth version of the charter school bill found its way into HB 1443. Originally a county director pay adjustment bill that passed the House 95-3, HB 1443 was also stripped of its original language and became the new home of the school funding formula, along with the charter school bill. This bill moved out of the Senate Finance Committee on a 10-0 vote, and the germaneness rule was suspended by the Senate. After an amendment to remove the charter school language was defeated 28-21, HB 1443 passed the Senate on a largely party line vote 33-17, with two Democrats joining all 31 Republicans to vote for passage.

Because HB 1443 had been amended in the Senate (indeed, totally reconstituted), the House had the option of concurring with or dissenting from the amendments. The House voted to dissent, and a House/Senate conference committee was formed. When the four members of the conference failed to reach agreement on the contents of the bill, the bill died.

The progress of the charter school bill in Indiana may shed light on the content of recently passed legislation in other states. Had it passed in its original form, Representative Warner's bill would have been one of the most expansive charter school laws in the country. At every turn, however, the bill grew less expansive—in the House Education Committee, in the Senate Education Committee, and in the Senate Finance Committee—as Warner sought consensus and support. Had the final version of the bill been passed, it would have been among the more restrictive charter school laws in the nation.

A similar path has been followed by bills in any number of other states. Expansive bills tend to become restrictive laws because of the compromises needed to get them passed.

TABLE 4
Evolution of Indiana's Charter School Bill[1]
(1995 session of the General Assembly)

Version / Issue	HB 1465, introduced version[2]	Amended version of HB 1465, passed by House Education Committee but withdrawn before full House vote	Third version, inserted into HB 1269, amended and passed by Senate Education Committee, but ruled not germane	Final version, inserted into HB 1443 (along with school funding formula), passed 10-0 by Senate Finance Committee, passed 33-17 by Senate, but died in House/Senate conference committee
Number of schools	50 for sponsors other than LSBs[3] through the 1996-97 school year, and unlimited thereafter; LSBs could sponsor an unlimited number of schools	no more than five charters for corporations larger than 8,000 students, no more than three for corporations between 3,000 and 8,000, and no more than one for corporations with less than 3,000 students	no limit	no change from previous column
Eligible sponsors	LSB, educational service centers, SBE,[3] and public postsecondary institutions	only LSB	no change from previous column	no change from previous column
Eligible operators	individuals, including licensed teachers; public school with the approval of 50% of its licensed teachers; nonprofit private organization, including an existing private school	individual or group of individuals; public school with the approval of 50% of its licensed teachers; private organization that is accredited by a generally recognized national or regional accrediting agency	deletes reference to accreditation for the private organization	no change from previous column
Eligible schools	existing public, existing private, new	no change from previous column	no change from previous column	no change from previous column
Appeals process for denied charter	petition may be submitted to alternative sponsor	may appeal to SBE	no appeal available	no change from previous column
Evidence of local support	50% of licensed teachers in a conversion school must support	no change from previous column	no change from previous column	no change from previous column

TABLE 4 (continued)

Waivers from state education laws	charter schools are exempt from all corporation policies and state statutes and rules if a waiver is included in the charter; exceptions include health and safety, civil rights, auditing and financial accountability, special education, minimum school day and year, patriotic commemorative observances, and reporting of student violations	adds other state statutes that may not be waived, including teacher licenses and contracts, nondiscrimination for teacher marital status, teacher freedom of association, school counselor immunity, exemption from school fees for eligible families, notice to parents concerning financial assistance, statewide assessment and remediation, parental access to student records, and curriculum required for high school graduation	removes teacher licenses and contracts and high school graduation requirements from list of state statutes that may not be waived; removes requirement that waivers for other state laws and rules and corporation policies must be included in the charter (which means that charter schools receive a blanket waiver from all laws, rules, and policies not listed as exceptions)	no change from previous column
Collective bargaining	corporation collective bargaining agreement does not apply to charter school teachers, who are employees of the school; charter school teachers may bargain collectively as a separate and distinct bargaining unit	no change from previous column	charter teachers may not bargain collectively even at the school level	no change from previous column
Charter school autonomy	charter school is defined as an autonomous non-profit organization that is not affiliated with a religious organization and that may sue and be sued, acquire real property, and convey property	references to nonprofit status and religious organizations deleted	specific references to legal autonomy deleted, though power to sue and be sued, acquire real property, and convey property retained	establishes charter school as part of a school corporation and specifies again that it be nonreligious
Funding	charter school receives state school aid (on a per-pupil basis) directly from the Indiana Department of Education (IDOE), and local school aid from the corporation	state school aid for charter schools goes to the school corporation where the charter school is located; charter school is to receive no more per-pupil aid from the corporation than other schools in the corporation, and may receive less, as negotiated in the charter	no change from previous column	provides that only money from a school corporation's general and transportation funds be used to calculate how much the corporation may pay a charter school; if a charter school enrolls students with disabilities, the corporation may direct a proportionate share of state and federal special education funds to the charter school
Control over budget	charter school has exclusive control over funds	no change from previous column	no change from previous column	no change from previous column
Start-up funds	no funding provided	no change from previous column	no change from previous column	no change from previous column

TABLE 4 (continued)
Evolution of Indiana's Charter School Bill[1]
(1995 session of the General Assembly)

Version / Issue	HB 1465, introduced version	Amended version of HB 1465, withdrawn before full House vote	Third version, inserted into HB 1269, ruled not germane	Final version, inserted into HB 1443, died in House/Senate conference committee
Issues other than the twelve categories of expansiveness				
Assessment	statewide assessment (ISTEP) not required	statewide assessment (ISTEP) required	no change from previous column	no change from previous column
Teacher credentials	required to be "qualified" but not licensed	required to be licensed unless teaching a subject for which a teacher's license is not issued	required to have bachelor's degree but not to be licensed	no change from previous column
Contracts of non-charter school teachers	not addressed	allows corporations to cancel contracts of regular public school teachers if the establishment of a charter school results in loss of students or funding	voids several additional statutes governing the cancellation of teacher contracts	voids several statutes governing the cancellation of the contracts of superintendents, principals, assistant principals, and special education directors
Teacher retirement fund and tenure	school corporations must grant teachers up to a five-year leave of absence to teach in a charter school, during which their retirement benefits and seniority status continue as if the teacher were an employee of the school corporation; however, years of teaching at a charter school do not count toward tenure	no change from previous column	no change from previous column	requires charter schools rather than school corporations to contribute to the state teachers' retirement fund; also requires charter schools to participate in the public employees' retirement fund for employees who are not members of the teachers' retirement fund
Student enrollment priorities	any student in Indiana may enroll; priority is given to students already enrolled in the school and siblings; for LSB-sponsored schools, priority is given to students in the corporation, then in adjacent corporations, then in Indiana as a whole	enrollment limited to students in school corporation	corporation must establish geographic boundaries for a charter school and must make enrollment available to all students within those boundaries; corporation may make enrollment available to other students within the corporation	no change from previous column

TABLE 4 (continued)

Length of charter	5 years	not less than 3 nor more than 5 years	no change from previous column	no change from previous column
Charter school panel	establishes a seven-member charter school panel to review proposals approved by a sponsor for conformity with the requirements of the charter school law	no such panel established	no change from previous column	no change from previous column
Postsecondary admissions	requires Indiana postsecondary institutions to develop alternative admission requirements that recognize charter schools' likely development of alternative assessment mechanisms and graduation requirements	no such requirement mentioned	no change from previous column	no change from previous column
Reporting requirement	no reporting requirement	requires charter school operators to submit an annual report to the IDOE containing results of standardized testing, enrollment data, attendance records, graduation statistics, and other information	no change from previous column	requires charter schools to report data to the school corporation that the corporation needs to comply with state and federal reporting requirements

[1]Provisions of Indiana's charter school bills addressing the twelve categories of expansiveness defined in the previous chapter are listed first, followed by other provisions.
[2]Four charter school bills were introduced during the 1995 session of the Indiana General Assembly: HB 1261 (Kruse), HB 1465 (Warner), HB 1596 (Bosma), and SB 485 (Howard), which was identical to HB 1465. Eventually, the bills were consolidated into an amended version of HB 1465, with Bosma and Kruse added as co-authors. This version of the bill was amended twice more and inserted into two other bills, HB 1269 and HB 1443.
[3]LSB = Local School Board
SBE = State Board of Education

Sources: HB 1269, HB 1443, and HB 1465.

CHAPTER 4

CHARTER SCHOOLS IN OPERATION

At the start of the 1995-96 school year, 250 charter schools had been approved across the country, and 226 were in operation (see Table 5). As expected, the number of approved and operating charter schools in states with expansive laws is much higher than in states with restrictive ones. Not including the 1995 states, none of which has had time to approve any schools yet, the six states with the most expansive charter school laws (Minnesota, California, Colorado, Massachusetts, Michigan, and Arizona) had approved 238 charter schools, with 214 in operation. The five states with the most restrictive laws (Georgia, New Mexico, Wisconsin, Hawaii, and Kansas) had approved 12 charter schools, all of which were in operation.

Charter Schools in Brief

Although the charter school movement is still young—the earliest charter school, City Academy in St. Paul, is only in its fourth year—some trends are already emerging and some questions are starting to be answered. One thing is certain: opening a charter school is an arduous task, compounded by unclear laws, lack of start-up funds, difficulty locating suitable facilities, and (sometimes) antagonism on the part of the resident district. Additionally, some charter school operators have discovered that drafting an innovative educational plan is easier than managing the day-to-day educational—and business—operations of a school.

Most charter schools are small, and there are considerably more elementary than secondary char-

TABLE 5
Number of Approved and Operating Charter Schools (as of September 1995)

State (yr. law passed)	Approved	Operating
Minnesota (1991)	18	17
California (1992)	93	80[1]
Colorado (1993)	24	24
Georgia (1993)	3	3
Massachusetts (1993)	20	15
Michigan (1993)	32[2]	32
New Mexico (1993)	4	4
Wisconsin (1993)	4	4
Arizona (1994)	51	46
Hawaii (1994)	1	1
Kansas (1994)	0	0
Alaska (1995)	0	0
Arkansas (1995)	0	0
Delaware (1995)	0	0
Louisiana (1995)	0	0
New Hampshire (1995)	0	0
Rhode Island (1995)	0	0
Texas (1995)	0	0
Wyoming (1995)	0	0
Total	250	226

[1]65 charter schools were in operation in California at the end of the 1994-95 school year, according to Eric Premack of the Charter Schools Project. At the beginning of the 1995-96 school year, some 15 more had opened, according to Premack, but an official count of the schools had yet to be undertaken.
[2]A number of additional charter schools in Michigan had been approved by eligible sponsors, particularly by Central Michigan University, but had not yet obtained official verification to receive state aid from the superintendent's office. The department of education does not consider schools officially approved until this verification has been given.

Sources: Conversations with officials from each state.

ter schools. As a group, the schools serve a student population comparable to the overall public school population in terms of race and socioeconomic status—not an elite population of upper-middle-class white students, as some had feared. Indeed, many charter schools have been designed explicitly to serve at-risk students.

The schools are experimenting with a variety of educational approaches, the most popular of which appear to be interdisciplinary instruction, expanded use of technology, increased parent involvement, performance assessments and portfolios, and back-to-basics instruction.

There have been some notable success stories, such as City Academy, which has guided a large proportion of its students (most of them former dropouts) through high school and on to postsecondary study, and Vaughn Learning Center in Los Angeles, which has seen its test scores rise and ended its first year with a million dollar surplus. There have also been some unfortunate failures, such as EduTrain in Los Angeles, which was shut down for financial mismanagement a year after it opened.

In general, however, it is difficult to evaluate the progress of most charter schools in the very area where they are supposed to make the biggest difference: student achievement. There is little evidence that students are learning more in charter schools than in regular public schools. One reason for this lack of data is, of course, the youth of the charter school movement. It usually takes several years to determine how well students are being educated. There are indications, however, that evaluating student achievement in charter schools will continue to be difficult because of the lack of rigor in many of the charters regarding student outcomes and the measurement of those outcomes.

These and other issues are discussed in detail below.

School Type

Most charter schools are elementary schools. Charter high schools are relatively uncommon.

- Of the 76 schools chartered through November of 1994 in California, only 4 were high schools; 13 others served high school students along with middle school or middle and elementary school students (Berman, Diamond, & Premack, 1994).
- A March 1995 survey of 165 approved schools in seven states found that of the 110 schools responding to the survey, 16 were secondary only, and another 24 included secondary grades (as part of a middle/high school or K-12 school). By contrast, 32 were elementary schools, and a total of 59 served elementary students in some configuration (Medler & Nathan, 1995).

School Size

Charter schools, especially new ones, are smaller than regular public schools. This is especially true in states where a significant proportion of charter schools are new starts rather than public school conversions.

- Four of the first six charter schools in Minnesota enrolled fewer than 100 students each. The other two both enrolled fewer than 200 students (Urahn & Stewart, 1994).
- In late 1993, 12 of 34 California charter schools surveyed were under 200 students, and another 8 were under 400 students (Dianda and Corwin, 1994). (As the following item will note, California's charter schools are generally larger than those around the nation, because many of them are conversions.)
- The average size of charter schools nationwide in 1994-95 was 287 students, according to the Medler and Nathan survey (1995). However, except for California, with an average of 479, and New Mexico, 520 (all conversion schools), the state-by-state averages are much smaller: 181 in Colorado, 126 in Massachusetts, 92 in Minnesota, 107 in Michigan, and 89 in Wisconsin.

Student Population

Charter schools are not serving an elite population of upper-middle-class white students, as some had feared. If anything, charter schools serve a more underprivileged student population than regular public schools do.

- In Massachusetts, 7 of the 12 operating charter schools with data on the race/ethnicity of students were more than 45% minority; 5 of those 7 were over 66% minority (Massachusetts Department of Education, 1995). (Massachusetts has 15 charter schools in operation; three of them did not report race/ethnicity data.)
- In Michigan, at least 4 of the first 10 charter schools had a higher percentage of both minority students and low-income students than the resident district did. A fifth had a higher percentage of minority students than the resident district but a lower percentage of low-income students, and a sixth had a higher percentage of low-income students but a lower percentage of minority students. The other four charter schools all had significant percentages of minority and low-income students, though comparison data for the districts were unavailable. Overall, these 10 charter schools served a percentage of minority students that was more than twice as high (49% to 23%) as the percentage in the state's schools as a whole (Vitullo-Martin, 1994).
- Charter schools operating as of November 1994 in California served a student population that slightly underrepresented minority and limited-English-proficient (LEP) students compared to the overall public school population: 19% of charter school students were LEP and 53% minority, compared to 23% and 58%, respectively, for the regular public schools (Berman et al., 1994).
- An earlier survey of California's first 44 charter schools (with 34 responding) found similar results for charter schools statewide. Breaking down the data by location (metropolitan, small town, rural), the authors found that metropolitan schools in particular served high concentrations of low achievers, minority students, and LEP students. For example, in half of California's metropolitan charter schools, the student population was at least 70% minority, and in two fifths of the metropolitan schools, at least 50% of the students were LEP (Dianda & Corwin, 1994).
- Three of Minnesota's first six charter schools clearly serve special populations (dropouts, hearing-impaired students, and low-income students). The other three serve a general population of students (Urahn & Stewart, 1994). Other approved schools in Minnesota (but not in operation at the time of the report) target a Native American population and students with reading difficulties.
- The Medler and Nathan survey (1995) found that as of March 1995, the average charter school percentage of white students was 60%, that of minority students 40%.
- Medler and Nathan also asked charter school operators nationwide what student population their schools were designed to serve. Of the 110 schools that responded, 74 replied that they were designed to serve a cross-section of students, 56 said at-risk students, 39 gifted/talented, and 38 learning disabled. (Operators could choose more than one response.)

There are at least two reasons why many charter schools are targeting disadvantaged students (other than the fact that helping such students is a prime goal of many educators). First, the legislation in at least 7 of the 19 states either encourages or requires some charter schools to address the needs of at-risk youth.

Second, authorizing bodies, particularly local school boards, are more likely to sponsor a charter school if it is designed "to serve children that the public schools have already conceded they cannot serve," as Marcella Dianda and Ronald Corwin say

in *An Early Look at Charter Schools in California* (1993, p. 5). They point to early activity in Minnesota as an example of this "niche" strategy. Many of that state's initial charter proposals, including City Academy's, were approved in part because they proposed to serve tiny populations of hard-to-educate students, thus posing little threat to the existing public school system (see also Urahn & Stewart, p. 23). Although this approach boosts a charter school's chances for sponsorship, Dianda and Corwin suggest that it may ultimately reduce the chances that the charter school movement will prompt changes in the school system as a whole.

Educational Approaches

Charter schools are pursuing a host of different educational approaches. A list of the most popular approaches, based on two national surveys (Education Commission of the States, 1994; Medler and Nathan, 1995) and on brief portraits of schools released by state departments of education or described in the literature, would include the following (schools are not limited to a single approach):

- thematic/interdisciplinary instruction
- expanded use of technology
- parent involvement
- performance assessment/exhibitions/portfolios
- back-to-basics/core curriculum
- community as classroom/real world focus
- individualized education plans
- multi-age grouping
- focus on a particular curriculum (such as arts or math)
- home study
- extended school day/year
- character instruction
- vocational/technical education

Three things about this list are worth noting. First is the prominence of the back-to-basics approach. When one thinks of educational innovation, one generally does not think of back-to-basics, which is often associated with the very drill-and-kill techniques that innovation is designed to supplant. Yet a significant number of approved charter schools are using this approach. Obviously, more than a few sponsors believe that a back-to-basics approach will result in improved student achievement, or they would not have authorized the schools.

The popularity of this approach serves to remind us that although *innovation* is one of the main objectives of the charter school movement, and is one of the criteria for approval written into some state laws, *improved student achievement* is the overriding goal. Nothing in the spirit of entrepreneurship and autonomy which animates the charter school movement prevents operators and sponsors from pursuing any educational approach that may improve the performance of students.

Second, a number of charter schools (all in California) involve home-based instruction. Parents are the primary teachers, with support provided by resource teachers at a central site. Originally this practice was allowed in Michigan, where the now infamous Noah Webster Charter School planned to start a network of home schools, all connected by computer to each other and to a central office.

In Noah Webster's case, this approach was a thinly veiled attempt by its founder, an outspoken religious conservative, to enable parents to teach religion to their children at public expense. As a result, most charter school proponents distanced themselves from the school. After Michigan's charter school law was ruled unconstitutional and rewritten to address the court's concerns, state funding was withheld from Noah Webster. (It is now a private school.) Still, schools such as Noah Webster raise an interesting question. In the age of cyberspace, where people can be connected to each other and to vast bodies of information by computer, is the requirement that a school exist at a single site the relic of a passing age?

Third, virtually all of the approaches mentioned in the list—and in the much longer list of approaches that could be generated—are being tried in regular public schools as well as charter

schools. In Indiana alone, over 130 schools (out of a total of some 1,900) are using an approach called CLASS (Connecting Learning Assures Successful Students), which combines thematic instruction, character development, and cooperative learning. Over two hundred schools are designated as Indiana 2000 schools (there is some crossover between CLASS and Indiana 2000), meaning that they receive waivers and a small grant to undertake restructuring initiatives, including many of the innovations mentioned above. Dozens, if not hundreds, of other schools not connected with any official state programs are undertaking innovations with the support (and sometimes the prodding) of district officials. And Indiana is hardly unique among states in terms of the type and amount of innovation in the public schools.

All of this activity in regular public schools raises an important question: With so much innovation already occurring, what are charter schools adding to the mix? The answer may be "not that much," if type and amount of educational innovation are the sole criteria.

But charter schools may contribute to our understanding of innovation in two other important ways. First, although the *type* of educational innovation in charter schools may not be so very different from that in regular public schools, the *duration* may be. As any student of educational change knows, introducing an innovation is the easy part; sustaining it is another story altogether. Legion are the public schools and districts that have invested significant time, effort, and money in adopting some innovation, only to see it wither and die after two or three years, the victim of changing leadership, lack of funds, fatigue, or the myriad institutional forces that compel trailblazers to revert to the norm. Perhaps charter schools, each founded around a particular innovation or set of innovations, each operating under a contract committing it to the innovation, each staffed with teachers dedicated to the innovation, each flexible enough to respond rapidly to the unexpected, will be able to sustain innovation in ways that many regular public schools cannot.

Second, educational innovations (i.e., curriculum and instruction) are not the only kind in which charter schools are engaged. As a report on charter schools in Colorado points out (Fitzgerald, 1995), other types of innovations are important as well. Acknowledging that Colorado's charter schools are not as strikingly innovative in terms of educational approaches as some might have expected, Fitzgerald goes on to say, "When it comes to issues of management, governance, and personnel, it is difficult to deny that charter schools are doing things in a fundamentally different way than public schools" (p. 18).

Charter schools in Colorado and other states with expansive laws are experimenting with new types of decision-making arrangements, teacher contracts, salary structures, budgets, organizational structures (non-profit, for-profit, cooperative), and forms of collaboration with organizations such as businesses, museums, governmental agencies, and community groups. For example, the U.S. Drug Enforcement Agency is opening a residential charter school in Michigan (Harp, 1995), and the Teamsters Union is collaborating with a charter school in Minnesota (Bierlein & Mulholland, 1995). It may be in these areas, more than in curriculum and instruction, where charter schools prove truly innovative.

It should be stressed again at this point that the charter school movement is young. A number of new schools opened in September 1995, none of which is included in the analysis above. As the charter school movement expands, so may ideas about how to educate America's youth.

Barriers

Two major barriers confront almost everyone who tries to start a charter school: lack of capital funds and lack of legal and business expertise. A number of other barriers, including special education, problematic relationships with sponsoring districts and teachers' unions, and lack of clarity in legislation, have also vexed many charter school operators.

Lack of Funding for Start-Up Costs and Facilities

In the Medler and Nathan survey (1995), (a) lack of start-up funds, (b) finances, and (c) facilities were rated the three most significant barriers to establishing and operating a charter school. Also, financial support was the most frequently cited form of additional support charter school operators said they needed.

Unlike regular public schools, which generally have separate funding sources (levies, bonds, and the like) to cover capital costs, charter schools must pay for facilities out of general operating revenue. For conversions, this is somewhat less of a problem, because they already have facilities in place, although they generally have to lease them from the resident district and pay for maintenance.

But for new starts, which have to locate and lease (or buy) adequate facilities, it can be a huge problem, in some cases an insurmountable one. Even if the district or community provides unused buildings for minimal cost to a charter school, the expense of bringing buildings up to code and making them accessible for handicapped students can be prohibitive. For example, the Jingletown Charter Middle School in Oakland, California, was the beneficiary of donated portable classrooms and a $1 per year land lease. Parents and volunteers helped prepare the site, digging ditches and laying electrical and sewer lines. Still, after paying building permit fees, moving the classrooms, and meeting earthquake safety codes, the school almost went bankrupt before it opened its doors (Berman et al., 1994).

New charter schools have met the need for affordable facilities in many ways. In Minnesota, for example, one school is housed in a suite of offices in an office building, one in a recreation center, and one in an apartment complex. Although serviceable, these facilities are not without problems. Rent in the office building is high, and for recreation the students have to go to a nearby YMCA. School areas in the apartment complex are disconnected, and students must go outside to get from one area to the next (Urahn & Stewart, 1994).

Other start-up costs—planning, legal fees, consulting fees, desks, textbooks, computers, and so forth—can also be a significant drain on operating expenses.

Only four states provide start-up funds for charter schools (see Tables 2a and 2b), and the amount they provide is small compared to the expense of getting a school up and running. Many charter schools have sought and received grant money to cover start-up costs. In some cases, the amount of the grant is considerable—over $100,000 for several schools around the country. Many charter schools, however, receive little or no grant money and must rely exclusively on operating funds to cover their start-up and capital costs.

Additional funding for some charter schools will soon be available in the form of federal grants. A provision in the 1994 reauthorization of the Elementary and Secondary Education Act established a $15 million grant program for charter schools. In September 1995, $5 million was distributed to eight charter school states (Arizona, California, Colorado, Georgia, Louisiana, Massachusetts, Michigan, and Texas) and another $78,000 to two charter schools in New Mexico (individual schools could apply for grant money if their state did not) (Pitsch, 1995).

It might be worth noting that grant-maintained schools in Britain, to which American charter schools are often compared, receive additional funding from the government as soon as their proposal to "opt out" of the traditional public school system is approved (Wohlstetter & Anderson, 1994). Each school receives a transitional grant, including a lump sum that varies from $36,000 to $54,000 (American dollar equivalent), depending on the size of the school, plus $54 per pupil. Thus, a grant-maintained elementary school with 350 students would receive a transitional grant of $72,900. In addition, all schools receive an annual allocation for capital repairs of $18,000 plus $36 per student. Thus, that elementary school would receive an additional grant of $30,600. Schools can also apply for special purpose grants and supplementary grants for major capital development projects.

Lack of Legal and Business Expertise

Conceiving a charter school is one thing. Running it is quite another. Operators in many states are discovering just how difficult it is to launch an entrepreneurial enterprise such as a charter school and manage day-to-day business operations.

- *California:* "Many charter developers start with visions of how to greatly improve schooling, but lack the experience to manage their own fiscal and organizational affairs . . . and become overwhelmed by the complexity of legal issues and labor union negotiations" (Berman et al., 1994, pp. 22-23).
- *Minnesota:* "It became clear that in most cases, the schools' operators were not as aware as they should have been that a school is more than an educational enterprise—it is a business. Their lack of business expertise made the initial charter school experience a very difficult one" (Urahn & Stewart, 1994, p. 53).
- *Colorado:* "The absence of legal advice and assistance is by far the biggest and most common concern" (Fitzgerald, 1995).

In addition to facilities and equipment, operators of charter schools must wrestle with special education (discussed in the following section), the funding formula, teacher salaries, health insurance, the school budget, financial audits, security, and so forth. Operators in some states are electing to pay a portion of their per-pupil share to the resident district in return for certain services, such as food services, payroll administration, transportation, and insurance—although as Berman et al. (1995) point out, districts often do not know how much to charge for such services. In any case, too much reliance on the district may begin to compromise the autonomy that was one of the initial intentions of the charter school movement. Charter schools also seek technical assistance from state agencies (the provision of which is mandatory in some states), hire consultants, and utilize parent volunteers.

Special Education

Public schools are obliged to admit all students regardless of disability. If a student attending a public school is identified as disabled, the district has certain obligations specified in federal law. It must assess the student's needs, develop an individualized education program (IEP), place the student in the least restrictive environment, and provide services appropriate to the student's needs. School buildings also must be made accessible for students with disabilities.

To help compensate for the extra costs, the district receives additional funding for each student with disabilities based on formulas that vary somewhat from state to state. Often, however, the extra funding is not enough to match the costs of educating the students, and the district must dip into general operating revenues to pay for special education. Districts also help control the costs of special education by designating particular public schools as special sites for students with certain types of disabilities or by hiring special education teachers who circulate from school to school.

These cost-controlling measures are not available to charter schools, especially those that are legally autonomous. There is generally no mechanism specified in law for these schools to share costs or personnel with other district schools or to draw upon the expertise of district staff members who specialize in special education assessments and funding. What's more, some charter school operators, particularly those starting new schools or converting private schools, are unaware of the extent of their responsibilities and, consequently, are unprepared to meet the needs of students with disabilities who enroll.

Nor are public school conversions free from difficulties fulfilling these responsibilities. Even the Metro Deaf school in St. Paul, which was established specifically to serve hearing-disabled students, had to utilize the expertise of special education personnel in the sponsoring district and the state department of education. Ultimately, the school had to hire a consultant (Urahn & Stewart, 1994).

Several other schools in Minnesota have encountered a different problem, a Catch-22 involving funds for students with disabilities, according to Peggy Hunter, president of Charter School Strategies Inc. These schools focus on individualized instruction, in essence developing IEPs for all students, regular and special alike. Since special students are no longer the only ones with individualized programs, the reimbursement the schools ordinarily would receive for these students is in jeopardy.

In practice, most charter schools and districts appear to be working out their respective responsibilities toward the education of students with disabilities on a case-by-case basis. However, as the next section indicates, charter schools and their resident districts are not always on the best of terms.

Problematic Relationship with Districts

As suggested in the analysis of charter school laws above, designating school districts as the sole body eligible to sponsor charter schools can have a dampening effect on charter school activity. If the experience of charter school operators in several states with such an arrangement is any indication, it can also influence the type of charter schools that get sponsored, limit their autonomy, and restrict opportunities for innovation.

In California, most charter schools surveyed by Dianda and Corwin (1994) reported having cooperative relations with districts (64%) and with the local teachers' union (52%). However, the more autonomous a charter school sought to be, the less likely it was to be supported by the district. Also, the more control a charter school sought over staffing, the less likely it was to be supported by the union. Additionally:

- 47% of the charter schools surveyed reported that districts added conditions before approving charters. In metropolitan areas, that figure was 62%.
- 52% of charter schools reported still being hindered by district rules.
- 36% of schools reported that union contracts were a major obstacle. In metropolitan areas, that figure was 47%.

The story has been similar elsewhere. In Minnesota, both the charter schools and the sponsoring districts often found the arrangement troublesome. The districts were uncertain what services they were supposed to be providing and how closely they were supposed to be monitoring charter schools. The charter schools reported that the districts often were not providing services to which the schools felt entitled. At best, according to Urahn and Stewart (1994), the relationship between the district and the schools has been neutral. At worst, it has been antagonistic.

In Colorado, charter schools are legally part of districts, rather than a separate entity. Therefore, districts and schools have had problems working out a balance between the schools' desire for autonomy and the districts' concern over liability (Fitzgerald, 1995). Funding has also been a problem. By law, the charter schools are guaranteed only 80% of per-pupil funding and must negotiate the rest with the district, depending on how many services are provided. Naturally, this policy has resulted in disputes in some districts over how much money charter schools are entitled to receive.

Lack of Clear Legislation

Although charter schools in several states suffer to some degree from vagueness in the legislation, in California this has become a major problem. For one thing, as noted above, California's legislation does not guarantee a charter school's autonomy. The degree of autonomy is open for negotiation between charter school operators and districts, and questions concerning the accountability and liability of the various parties have plagued the process (Dianda & Corwin, 1994).

Nor is the legal status of charter schools in California defined in the legislation. "Since charter

schools are presumably freed from the restrictive state laws," write Berman et al. (1994, p. 36), "they could become different legal entities—for example, an independent non-profit organization, a local governmental entity operating under Joint Powers Authority, or a legal arm of the sponsoring district." But confusions abound. For example, if a charter school becomes a non-profit corporation, thus ensuring its independence from the district, it may jeopardize its teachers' participation in the state teachers' retirement system, which is open only to employees of governmental entities. Also, it is unclear to what extent open meeting laws, bidding and purchasing laws, conflict of interest laws, and other laws and regulations intended for governmental entities apply to charter schools.

Finally, the mechanisms by which charter schools are funded are unclear. California's school funding system is exceedingly complex, with dozens of categorical programs in addition to basic tuition support, and it is not clear from the broad language in charter school legislation just which and how much of these monies charter schools are entitled to (see *How Much Funding*, 1994). As a result, financial negotiations between charter schools and districts have often been frustrating for both parties.

Hidden Constraints

Although charter schools in many states are free from state and district education laws and regulations, unexpected hurdles sometimes emerge to constrain charter school innovation.

For example, in California, public schools including charter schools are funded based on ADA (Average Daily Attendance). In theory, this simply means that schools get their funding allotment based on the number of students that attend the school on an average day. However, ADA is defined in the funding formula in a way that assumes a traditional schedule and classroom structure, and this definition can penalize charter schools that do not conform to such a schedule (*How Much Funding*, 1994).

Another example: It is usually considered a benefit for charter schools if districts are required to provide transportation. That makes one less headache for school staff to worry about. However, this requirement can have the unintended consequence of forcing charter schools to structure their day around the district bus schedule, making anything but a traditional schedule all but impossible (Urahn & Stewart, 1994).

Teacher Workload

Like so many other education reforms, starting a charter school places serious demands on the teachers involved. Not only do they have to develop curricular, instructional, and governance approaches, but they may also have to help formulate a business plan, secure facilities, manage money, wrangle with contractors, and even mop the floors. In many schools, the race between school success and teacher burnout may be a close one.

Parent Involvement

One rationale for public school choice in general is that parents are more likely to be involved with a school if they have elected to send their children there. Some states and some charter schools are doing more than simply hoping parent involvement will increase. They are mandating it. At least 11 states require evidence of some sort that parents in a school or district approve the establishment of a charter school (see Tables 2a and 2b), and at least five states require that parents be members of the charter school's governing board. What's more, charter schools in some states require parents to sign contracts committing to a certain level of involvement before their children will be eligible to attend the school.

Evidence from California suggests that parent involvement in charter schools in that state is higher than in comparison public schools:

- 74% of charter schools surveyed by Dianda and Corwin (1994) reported that parental influence in their schools was higher than in other schools

in the district. The same percentage reported using parents or community members as instructors.

- A different survey of California charter schools (Becker, Nakagawa, & Corwin, 1995) found that on all measures of parent involvement (attended an evening student performance, helped in a classroom, worked on a committee, etc.), charter schools reported higher levels than comparison public schools. (On the negative side, parent involvement at both sets of schools was still low.)
- A higher percentage of teachers at California charter schools than at comparison public schools regularly engage in practices (such as sending information to parents explaining school lessons) that encourage parents' involvement in their children's activities at home (Becker et al., 1995).

Additionally, 71% of charter schools in the Becker survey reported requiring parents to sign a parent involvement contract as condition for enrolling their children. The contract commits parents to certain levels of involvement, such as volunteering at least three hours per month at the school. If parents do not adhere to the terms of the contract, their children may be expelled.

On the one hand, the contract approach virtually ensures increased parent involvement in the school. Although only two schools in the study admitted to actually expelling a student because his or her parents failed to live up to the terms of the contract, the mere threat of expulsion is surely enough to prod most parents into participating in some form.

On the other hand, the contract approach may have adverse effects. As Becker et al. (1995) report, many of the contracts are drafted with a rather narrow vision of parent involvement in mind: "The overall tenor of the parent contracts used at most charter schools suggests that the contracts are viewed as a means of obtaining compliance rather than as a positive vehicle for encouraging the growth of a more inclusive school community" (p. 21).

What's more, Becker et al. suggest that the contracts are being used as a new kind of screening mechanism. "What we perceive to be occurring to some extent," they say, "perhaps unintentionally and unconsciously, is that schools are being organized to exclude students based on a new criterion" (p. 22). This new criterion is not wealth, race, academic ability, or behavior, but "having supportive and educationally involved parents" (p. 22). They conclude:

> Ironically, although charter schools were created to allow parents greater choice in the kinds of schools their children attend, the outcome of the contracts may be to give schools greater choice in the kinds of parents they have involved. (p. 22)

It will be important to monitor charter school enrollment over the next couple of years to see if this kind of selectivity is actually taking place, and, if so, what effect it is having.[2]

[2]Incidentally, a survey of parents whose children attended one of the first six charter schools in Minnesota (Urahn & Stewart, 1994) revealed that the school's curriculum was the primary reason that they chose the school for their children (104 responses out of a total of 269 responses from 87 parents). "School features" (e.g., small classes, location, and environment) was the second most frequent response (79), followed by "unhappiness with prior school" (26), "good teachers" (20), and "parent involvement" (20). These results are interesting in light of the controversy surrounding why parents choose to send their children to one school or another under traditional public school choice plans. Early studies suggested that parents were more likely to chose a school for reasons of convenience (such as proximity to home or work) than for the school's academic program (see, for example, Urahn, 1990). Later studies suggested that, on the contrary, parents were sending their children to schools with indicators of higher student achievement and higher socioeconomic status (see, for example, Fossey, 1994). The Carnegie report on choice, entitled simply *School Choice* (1992), contains an interesting discussion of this issue.

Effect on Other Schools

There will probably never be enough charter schools to serve more than a modest percentage of American public school students. However, advocates believe that charter schools will help effect significant changes in the public school system as a whole because of (a) their innovative approaches to education and governance, which can serve as models for regular public schools, and (b) the competition they provide, which can stimulate regular public schools to improve their programs. In the research literature, charter schools are often compared to the pebble that creates the ripple or to the lever that moves something bigger than itself.

Indeed, several districts around the country have made changes that are clearly in response to the existence, or the threat of the existence, of a charter school.

- Heeding advice from the district administration, a local school board in Minnesota had refused for years to open a public Montessori school, despite repeated requests from parents. After parents applied for charter status for a Montessori school—a charter that the local board was ready to approve—the administration decided that the district should open its own Montessori school after all. So although the charter was denied, the district at last has a public Montessori school.
- Similar pressure prompted another Minnesota district to create a Spanish-immersion program and introduce multi-age classrooms (Wallis, 1994).
- At least one district in Colorado responded to the establishment of three charter schools by adding three new alternative schools, again after years of refusing to take action despite pleas from parents.

Other than increasing local school boards' responsiveness to parent demands in a handful of school districts nationwide, however, the effect of charter schools on the system as a whole appears to have been rather limited thus far. Only 24% of the charter schools surveyed in California reported that their districts had liberalized restructuring policies in response to charter schools, and 27% that the districts planned to disseminate practices used by charter schools (Dianda & Corwin, 1994). Likewise, Urahn and Stewart (1994) report that, in Minnesota, "Most charter schools have had little effect on their sponsoring district" (p. 41).

Student Achievement

Innovation, competition, freedom from bureaucracy, accountability, choice—all these are simply means to an end: improved student achievement. How are charter schools faring on that front?

Unfortunately, on this question the charter school research is virtually silent. Little or no systematic evidence is yet available to help determine whether charter school students are learning more—or less—than their regular public school counterparts. This may change over the next few years as a result of a $2.1 million contract the U.S. Department of Education has signed with a consortium of research groups to conduct a comprehensive four-year study of charter schools. But at present, research on student achievement is lacking.

In a sense, this is not unexpected, given the youth of the charter school movement. Only three states—Minnesota, California, and Colorado—have had charter schools in existence for two years or more, and as we have seen above, the first year for many charter schools can be a difficult one.

The lack of evidence on the achievement of charter school students may not be a function solely of the youth of the movement, however. Studies of charter schools in Minnesota and California suggest that, despite mandates in the legislation, many approved charter schools have not developed rigorous performance expectations for students, nor have they specified precisely the methods by which performances are to be measured.

- From California: "Many charter school petitions have been approved without including clearly described pupil performance outcomes or specific achievement benchmarks. The charter school concept will simply not work without clear accountability" (Berman et al., 1994, p. 38).
- From Minnesota: "An examination of the charter school contracts indicates that in some cases, both the outcomes and assessments could be improved" (Urahn & Stewart, 1994, p. 52).

One of the problems facing charter schools is, of course, the same problem that has plagued other efforts to evaluate the effect of school reform on student achievement: finding assessment instruments that enable fair comparisons across schools *and* measure what is important for students to know. Traditional multiple choice tests make comparisons easy, but they probably do not provide an authentic measure of students' abilities to learn across disciplines, think creatively and critically, write well, solve problems, or apply what they have learned—precisely the kinds of abilities that many charter schools are designed to foster.

Performance assessments and portfolios promise to provide an authentic measure of student learning—and to complement the innovative instructional techniques taking place in many charter schools. However, in state after state where these types of assessments have been tried, serious questions about their reliability have been raised. Further, according to one study of accountability in the charter schools, "Most charter schools intend to use portfolios or performances in some form, but their charters reveal little evidence of the depth of their understanding of these assessment techniques" (*School Reform*, 1994, p. 4).

To be sure, some schools have succeeded in developing specific, rigorous outcomes and appropriate assessment tools. For example, the charter of Guajome Park Academy High School in Vista, California, clearly defines its promotion and graduation requirements. To advance from one "division" to another, students have to demonstrate progress through the presentation and defense of nine portfolios and pass the (now defunct) California Learning Assessment System (CLAS), among other things. The school has also established a School Performance Index using multiple indicators (SAT, Advanced Placement exams, college placements, and others) to compare its performance to other schools (*School Reform*, 1994).

In general, though, charter schools appear to be deficient in precisely the area in which they are supposed to make the greatest difference: accountability for student achievement. And as State Senator Gary Hart, author of the California charter school bill, suggested in the closing address at a conference held by the California Network of Educational Charters, this deficiency could prove to be the Achilles' heel of the charter school movement in the not-too-distant future:

> People are giving us time, but the time is rapidly coming when people are going to be saying, "Well, we've given you all of this freedom, what are you able to show for it." . . . And we have to focus on this, because the tradeoff has always been outcomes versus deregulation. And if we can't demonstrate the outcomes, we're not entitled to the deregulation. (Hart, 1995, p. 14)

CHAPTER 5

RECOMMENDATIONS FOR POLICYMAKERS

Some questions about charter schools are starting to be answered. For example, charter schools are difficult to get up and running. They are not turning into elite academies, as some had feared. They apparently increase parent involvement, although the methods by which some do so have been called into question. A number of promising schools have been developed, many of them with interesting management arrangements and affiliations.

Answers to two of the most important questions, however, have yet to emerge:

- What effect will charter schools have on the public school system as a whole?
- Will students learn more in charter schools than in regular public schools?

As the charter school movement matures and large research projects get under way, answers to these questions may be forthcoming. As yet, though, the jury is still out on the overall significance of charter schools.

With such key questions remaining, legislators have two defensible options: to defeat charter school legislation or to pass it. If they decide to pass it, they need to choose between expansive charter school legislation designed to promote a considerable amount of activity and more restrictive legislation that treads cautiously into the charter school arena.

Defeat Charter School Legislation?

Charter schools are intended to open up the possibility of fundamental change in public education—in who makes decisions about public schools, in what forms public education may take, and, ultimately, in what students will learn. In opening up these possibilities, charter schools inevitably run risks. For example, there are risks that:

- arrangements thought by some to be important to the survival and success of public education, such as local school board control and teacher unions, may be undermined;
- charter schools may draw so many dollars from a school corporation's budget (without a proportional reduction in costs) that the education of students in regular public schools will suffer;
- public funding may be used to support forms of education desired by some parents but not widely acceptable to the public at large;
- some children may not learn what every child has a right to learn in our society.

To date, states' experience with charter schools suggests that these risks may not be as pronounced as they may have appeared before charter schools were tried. But neither that experience nor the limited research on charter schools can rule out

these risks entirely for all students in all places. And many of the regulations on public schools can be seen, and were often enacted, as attempts to minimize these risks.

To the extent, then, that such risks are real and that legislators are unwilling to run them for the gains (also as yet unproven) that charter schools promise—to that extent legislators have a good reason to defeat charter school legislation. To a great degree, these are not matters in which empirical research will ever be the final word. Instead, as with many other educational innovations, they are matters of judgment, preference, and even temperament—just how dissatisfied is the public with current public schools and just how much jeopardy are we in because of that dissatisfaction?

Pass Charter School Legislation?

If legislators believe that the potential benefits of charter schools (e.g., expanded choices for students and teachers, increased responsiveness on the part of schools to education consumers, and, ultimately, improved student achievement) outweigh the risks, then they have good reason to pass charter school legislation. Any such legislation, whether expansive or restrictive, should probably contain the following provisions, intended to make charter schools as fair, equitable, and effective as possible:

Prohibit charter schools from setting admission requirements for students.

Only California and Wyoming grant charter schools the option to select students based on academic admission criteria. Several other states (a) expressly forbid charter schools to exclude students based on intellectual ability but (b) allow them to establish "academic standards" for prospective students. These two positions can be difficult to reconcile, and officials from some states have said that the issue will have to be worked out on a case-by-case basis. Because of the potential for confusion—and the possibility that such provisions could lead to selective admissions—it would be best for legislation to forbid charter schools from using *any* admission criteria.

Prohibit charter schools from using parent contracts as a condition for enrolling their children in charter schools.

Like admission requirements for students, contracts that require parents to "volunteer" a certain number of hours can be used, consciously or not, as a form of selective admission. There may be less potentially discriminating types of parent involvement agreements that parents could be asked to endorse, as long as other public schools in the district can use similar arrangements.

Require approval from a supermajority of teachers in a public school considering conversion.

It is essential that teachers working in a charter school share a common vision and commitment to that school. Teachers in existing public schools, therefore, should not be forced to be party to a change that they do not support. In order for an existing public school to convert, at least two thirds of teachers in the school should approve. Those not in favor should be given the opportunity to transfer to other schools in the district. (No such provision need be in effect for new charter schools, however. Teachers in new starts demonstrate by the very act of applying for the job that they support the school's approach.)

Grant current public school teachers a leave of absence (perhaps three years) to teach in charter schools.

Teaching in a charter school is a risky proposition. If teachers have some assurance that their tenure and seniority in their school district will be preserved for them should the charter school fail (or the law change), more teachers will be likely to take that risk.

Maintain teachers' participation in the teacher retirement system on the same basis as all other public school teachers.

Regardless of the organizational form that charter schools assume (non-profit, cooperative, governmental entity, etc.), stipulate that teachers in charter schools are public employees eligible for participation in the teacher retirement system.

Allow charter schools and districts to negotiate special education funding.

Charter schools and districts need to work out arrangements to pay for the education of students in need of special services. One possible model is for a charter school to pay a "fair share" of its funding to the district as a hedge against unexpected special education costs. The fair share would be calculated based on the district's total special education subsidy and the charter school's proportion of that subsidy. In return, the district would agree to cover all approved special education costs at the charter school, which in some cases would be less than the fair share and in some cases more (see *How Much Funding*, 1994).

Do not allow home schools to become charter schools, at least at first.

Controversies over possible religious curricula, separation of church and state, and the definition of a public school could derail the charter school movement before it is given a fair hearing, as almost happened in Michigan. However, if charter schools become an accepted part of the public education landscape, then an experiment with home charter schools may be warranted. Indeed, the telecommunication arrangements arising from home charter schools that connect students and parents to each other and to a central site by computer might prove instructive as we enter the age of cyberspace.

Require charter applications to include rigorous student performance goals and a well-defined assessment plan to measure student progress toward those goals.

Innovative programs are not enough. Operators—and sponsors—must begin thinking in terms of demonstrable results. If a charter does not include a detailed explanation of how results are to be measured, the charter should not be approved. The truth is, however, that most charter school legislation already contains provisions addressing goals and assessments. Yet in some cases schools without rigorous assessment plans are being approved despite these provisions. States may want to consider giving the state superintendent of public instruction or some other official the power to review approved charters for compliance with key provisions of the law.

Require charter applications to provide information concerning the proposed school's budget, administration, and facilities.

Again, a promising educational program is not enough. Charter applications should demonstrate that operators have given serious thought to the day-to-day aspects of running a school.

Consider giving charter schools that propose to serve at-risk students some form of preference in the approval process.

Legislation could require a certain number of charters schools to focus on at-risk students, or urge sponsors to give preference to charter applications that propose to serve at-risk students, or instruct state agencies to give preference to charter schools that serve at-risk students in distributing grant money. These or other approaches help ensure that charter schools do not turn into elite academies for advantaged students (though there is no evidence at present that this is happening, even in states with no preference built into the law for schools serving at-risk youth).

Require sponsors to approve or deny charter applications within a fixed period.

A 60- to 90- day period is enough time for a sponsor to thoroughly consider a charter application and hold public hearings if necessary. It is also brief

enough to keep the process moving.

Require the state board of education or the department of education to issue a report on charter schools to the legislature after the first two years.

The report would present information on student achievement, the makeup of the student population, types of innovations charter schools are undertaking, and so forth. For this to be done effectively, charter schools or their sponsors would be required to report this information to the state department of education.

Make sure the legislation is clear.

Uncertainties over funding entitlements, legal liability, eligibility for retirement benefits, and other issues have clouded charter school development in some states. Legislators need to clearly specify the funding mechanism (including categorical funds, transportation funds, special education funds, etc.), the legal status of charter schools, the right of teachers to participate in the state retirement system, the obligation of charter schools to obey laws governing public entities (such as open meeting and conflict of interest laws), and so forth.

Expansive Legislation

If legislators believe that charter schools are a reform worth trying, the question then becomes whether to pass expansive or restrictive legislation. Now, if anything about charter schools has been established, it is that expansive legislation generates more activity than restrictive legislation does. In the six states that passed expansive laws prior to 1995, 214 charter schools are up and running, compared with 12 in the five states with more restrictive laws.

The surest way, then, to promote the creation of a variety of genuinely independent charter schools and give this reform the fairest hearing possible would be to pass an expansive law, which would add the following provisions to the ones mentioned above:

Permit a considerable number of charter schools to form.

Allowing too few charter schools limits possibilities for innovation. It can also cause operators to race through proposal development, leading to schools that are not as well thought out as they might otherwise be. For a state the size of Indiana, 50 to 100 schools might be a reasonable initial cap.

Permit a variety of sponsors.

Limiting sponsorship to a single entity, such as local school boards, can severely restrict charter school activity. Legislation should authorize at least two sponsors, and perhaps more. Sponsors might include local school boards, the state board of education, the state superintendent of public instruction, public colleges and universities, or a statewide board formed solely for the purpose of chartering schools. If one sponsor denies a charter, operators should be able to apply to other sponsors.

Permit a variety of operators.

Public or private individuals and organizations—including parents, teachers, non-profit organizations, museums, colleges, businesses, and others—should be authorized to start charter schools. Many of these have expertise and experience that could prove invaluable in educating America's youth—provided, of course, that they can fashion a charter that convinces a sponsor of its viability.

Allow existing private schools to convert to charter schools.

As long as private schools agree to abide by the core principles of public education—tuition free, open to all, nonsectarian—they should be eligible for charter status. (Legislators should note, however, that this approach can be expensive. Instead of simply shifting to a charter school per-pupil funds that previously were being directed to a school district, the state will be paying additional per-pupil funds for groups of students who were outside the public school system but are now part of it.)

Provide a blanket waiver from state education laws and regulations for charter schools (but not from health and safety, civil rights, special education, or fiscal review standards).

Freedom from state education laws and regulations should not have to be negotiated point by point with potential sponsors, some of whom may be less than eager to provide it or may use the provision of waivers as a bargaining chip for concessions. Also, charter school operators may not always know in advance what laws and regulations may interfere with progress.

Give charter school teachers a variety of employment options.

It is important for charter schools to have control over personnel decisions. Thus, charter school teachers should be employees of the school, not the district. They should be allowed to join the local teachers' union, to bargain collectively as an independent unit with the school's governing board, or to have no bargaining agent.

Designate charter schools as legally autonomous entities.

As long as a charter school is legally part of a school district, its autonomy will be restricted in ways small and large, and both the school and the district will have questions about accountability, liability, and other issues. A legally autonomous charter school could take any number of forms: non-profit organization, business cooperative, separate school district, etc. This approach does not mean that all ties between the charter school and the district should be severed. Indeed, voluntary cooperation should be encouraged. Charter schools should be able to contract with the district for services such as insurance, payroll, and transportation.

Provide 100% of state and local per-pupil operating funds to charter schools.

Charter schools should be funded at the same per-pupil level as other public schools in the district.

Establish a funding flow directly from the state to charter schools.

Charter schools should be financially, as well as legally, autonomous entities. If funds flow through the district, all sorts of complications can occur, from uncertainty as to how much money the charter school should receive to delays in receipt of funding. It is preferable to send money directly to the charter school and then let the school, if it wishes, negotiate for services with the district.

Provide start-up funds to charter schools.

Charter schools have shown that they can survive without such funds. But an arduous task would be made easier, particularly for new starts, if the schools received some funding from the state upon approval of the charter. A flat grant of $20,000 to $50,000 per school, a per-pupil fee, or some combination of both would greatly facilitate the development of charter schools. If such funding is unavailable, a revolving low-interest state-supported loan fund might be a more politically acceptable alternative.

Address the facilities problem.

Legislation should have some provision for helping charter schools find and maintain facilities. Start-up funds would help immensely, of course. Legislators might also consider requiring districts to lease unused buildings to charter schools for a nominal fee, arranging for charter schools to have access to a share of districts' capital projects fund, or relaxing school building codes under some circumstances so that bringing old buildings up to code is not so expensive.

Permit a proportion of teachers in each charter school to be uncertified.

There need to be highly trained, certified teachers in each charter school. But other individuals with subject matter expertise and experience working with young people should also be able to teach in charter schools—if, that is, they can do the job. It

would be counterproductive for charter schools to have innovative collaborations with museums, social service organizations, colleges, businesses, and the like and be unable to utilize available talent. A reasonable compromise between the need to have certified teachers and the opportunity to use available talent would be to allow a certain proportion of a charter school's teaching staff to be uncertified, perhaps one third.

Provide technical assistance.

Charter school operators and teachers may need advice on how to develop a business plan, structure a budget, write a contract, develop an IEP for a child with a disability, or design an assessment system for the school. Provision should be made, and adequate funding supplied, for experts in the department of education or other state agencies to assist charter schools.

More Restrictive Legislation

If such expansive legislation strikes legislators as too far-reaching or controversial, yet they wish to pass charter school legislation that is robust enough to ensure some activity, certain compromises may be made in some of the most expansive provisions. For example:

- Permit fewer charter schools to form, perhaps 30 in a state the size of Indiana, and evaluate them systematically before raising the cap. If such a course is taken, it is important to articulate in law just what features or consequences of charter schools are to be examined. Specifying these criteria not only can assist the schools' evaluators and answer the questions legislators believe important about these schools, but also can be a guide to sponsoring agencies and to the charter schools themselves as to the expectations of legislators.
- Limit sponsorship to local school boards, instead of permitting multiple sponsors. If local school boards are the only sponsor, however, it is vital that the law include an appeals process to another body, perhaps the state board of education. If the second body finds that a charter school application denied by a local school board has merit, it should be allowed to approve the application and sponsor the school.
- Prohibit for-profit businesses from operating charter schools.
- Prohibit existing private schools from becoming charter schools.
- Identify a handful of state education statutes and regulations with which charter schools must comply—only those statutes and regulations deemed essential to the effective operation of schools.
- Require uncertified teachers in charter schools to be working toward certification.
- Provide no start-up funds to charter schools.

Many more compromises than these would tend to make passage of charter school legislation pointless. As experience in other states has shown, if the legislation is too restrictive, few charter schools will form, and those that do may not be distinct and independent enough to make much of a difference.

CONCLUSION

If American public schools are failing, and if critics are correct that too much bureaucracy, too little accountability, and too little responsiveness to consumer demand are at least in part to blame (two big "ifs"), then charter schools would appear to be an elegant solution to the problem, at least for some schools and teachers. The combination of freedom, accountability, and choice inherent in the charter school movement holds the promise of improving public schools without dismantling the entire system of public education.

However, the verdict is not yet in on the effectiveness of this new approach. We simply don't know at this time whether student achievement will improve or what effects charter schools will have on the system as a whole.

It is possible, however, that we may eventually learn important lessons about public education in America as the charter school movement grows and more evidence emerges. We may discover that freeing teachers and holding them accountable improves the performance of schools. We may discover the efficacy of entrepreneurship and competition in the public school setting. We may discover new ways to nourish and sustain educational innovation. We may discover new organizational structures, new collaborations, and new forms of school governance that yield improved results.

We may discover that charter schools can indeed improve student achievement, but only in tiny "boutique" schools with family-like atmospheres, schools that could never be replicated systemwide. We may discover that assessment systems that both measure what students need to know and enable comparisons across schools are virtually impossible to design.

Or we may even rediscover why there are regulations and central offices in the first place, as a host of entrepreneurs new to the business of public education learn first-hand just how difficult it is to educate the poor, the tired, the hungry, the disabled, the gifted, the minority, and the white students who show up every morning at their door.

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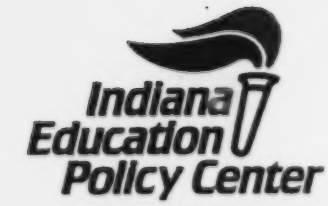

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